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ALBANY
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1920

STATE OF NEW YORK

PROCEEDINGS

OF THE

JUDICIARY COMMITTEE

OF THE

ASSEMBLY

**IN THE MATTER OF THE INVESTIGATION BY THE ASSEMBLY OF
THE STATE OF NEW YORK AS TO THE QUALIFICATIONS OF
LOUIS WALDMAN, AUGUST CLAESSENS, SAMUEL
A. DeWITT, SAMUEL ORR AND CHARLES
SOLOMON, TO RETAIN THEIR SEATS
IN SAID BODY**

VOLUME I



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PROCEEDINGS

STATE OF NEW YORK — ASSEMBLY CHAMBER

In the Matter of the Investigation by the Assembly of the State of New York as to the Qualifications of Louis Waldman, August Claessens, Samuel A. deWitt, Samuel Orr and Charles Solomon to Retain Their Seats in Said Body.

THE CAPITOL,
ALBANY, N. Y., *January 20, 1920*

Present:

Hon. Louis M. Martin,
Hon. George H. Rowe,
Hon. James M. Lown, Jr.,
Hon. Edward A. Everett,
Hon. William W. Pellet,
Hon. Edward J. Wilson,
Hon. Charles M. Harrington,
Hon. Harold E. Blodgett,
Hon. Theodore Stitt,
Hon. Louis A. Cuvillier,
Hon. Maurice Bloch,
Hon. William S. Evans.

Appearances:

For the Judiciary Committee:
John B. Stanchfield,
Martin W. Littleton,
Elon R. Brown,
Arthur E. Sutherland,
Samuel A. Berger,
Archibald E. Stevenson.

For the Socialists:

Morris Hillquit,
Seymour Stedman,
S. John Block,
William Karlin,
Gilbert E. Roe,
Walter Nellis.

For the Bar Association:

Charles E. Hughes,
Louis Marshall,
Ogden L. Mills,
Morgan J. O'Brien,
Joseph A. Proskauer.

HON. LOUIS MARTIN, Chairman

The Chairman.— The proceeding which is brought here to-day will not be conducted along the lines of a general committee hearing. It is in the nature of an investigation as to qualification of certain members of the Assembly of the State of New York to sit as members of that body and under the rules or one of the rules adopted by the Committee it was stated that the rules and procedure of the Supreme Court of the State of New York would prevail. In order to do that we must have that order and system in conduct of these proceedings that would follow in a court of record. I shall insist on the rule being in force that there be no applause during the progress of these proceedings. Another rule that I desire to insist on and will see that it is enforced is that there will be no smoking in this room during the proceedings. Before proceeding with the outline, I desire to see that the arrangements so far as possible are properly carried out for the seating. I assume that this table is for the gentlemen —

Mr. Hillquit.— For the Assemblymen under charges.

The Chairman.— And the table there (indicating), for the counsel of the Committee.

Now, the next row of seats is for the Committee proper and are there any gentlemen not properly seated?

The next rows are for the members of the press, so those members of the Assembly who are occupying those seats will have to give way to the members of the press. And then the next rows

back will be exclusively for the members of the Assembly, whose duty it is to hear this testimony so far as possible, and then the general public are welcome to the space that remains. Now, is there any gentleman here in the well who is not properly seated?

Now, these gentlemen here, these young men, are the page boys and I think they would seriously interfere with the progress of the trial by occupying these places. You will have to remove.

Mr. Charles E. Hughes.— Mr. Chairman.

The Chairman.— Governor Hughes.

Mr. Hughes.— I crave the courtesy of the Judiciary Committee to submit a brief statement on behalf of the Association of the Bar of the City of New York which is represented here by a special committee composed of Judge O'Brien, Senator Mills, Mr. Marshall, Mr. Proskauer, and myself. In asking the courtesy of the Committee to make a brief statement, I desire to say that this special Committee does not appear on behalf of the members of the Assembly under suspension, nor on behalf of the Socialist Party, but solely on behalf of the Association of the Bar and in the public interest we desire if we may at the threshold of the proceedings of this Judiciary Committee to suggest to the Committee the gravity of the matter before them and the importance of determining at the outset the application of certain fundamental principles and of formulating their course of inquiry in such a manner as to satisfy those principles of constitutional law and procedure. We have a concrete suggestion to make to the Committee, and it is our sole desire that this very important matter, the determination of which is so closely related to the security of the Republic, should be dealt with in a manner that will commend the action of the Committee and of the Assembly to the judgment of the people of the State whose interests are here involved.

The Chairman.— Will you kindly suspend the application until I arrange to make the statement of the Committee and the appearance of counsel noted?

Mr. Hughes.— Certainly. I merely desired, in view of your suggestion of the arrangements to note our appearances.

The Chairman.— Very well, sir. I desire to have the various counsel appear on the record as counsel in this proceeding. Mr.

Attorney-General, will you kindly announce the personnel of the counsel of the Committee?

Attorney-General Newton.— The counsel for the Committee is John B. Stanchfield, Martin W. Littleton, Henry F. Wolf, Archibald E. Stevenson, Samuel A. Berger and Elon R. Brown. Senator Brown, by reason of his appointments in New York, is unable to be present until this afternoon or to-night, but he is on the way here. I think that completes counsel so far as the committee is concerned.

The Chairman.— Has the stenographer the names properly noted?

The Recorder.— Yes.

The Chairman.— Will the Assemblymen kindly announce their counsel through Mr. Hillquit.

Mr. Hillquit.— Counsel for the accused Assemblymen are, in the order stated, Morris Hillquit, Seymour Stedman, Gilbert E. Roe, S. John Block, Walter Nellis and William Karlin.

The Chairman.— Is there any other appearances?

Mr. Hughes.— I desire, if this is the proper time to note appearances, of the Committee requested to appear as provided by the practice of the Supreme Court of the State of New York, which I understand you have said the Committee is to follow.

The Chairman.— Do I understand, Governor Hughes, you desire to appear not for the Assemblymen whose conduct is in process of investigation? You do not appear for them?

Mr. Hughes.— Not at all.

The Chairman.— Do you desire to have your appearances noted for the Bar Association?

Mr. Hughes.— Of the city of New York as a subcommittee, and for the purpose of making such suggestions and representations to the Committee as in our judgment may be deemed important in order that the proceeding may be heard and determined in accordance with sound constitutional practice, and we hope what we may do may be an aid to the deliberations of the Committee.

The Chairman.— The Committee, Governor Hughes, has taken

into consideration the possible application along this line, and we trust that you will appreciate the position that we are in when we say that we cannot consent to allow appearances on the part of any organization in the State outside of the real parties who are the subject of this inquiry. One of the very grave reasons that presents itself is this: "Very many organizations throughout the State, owing to the deep interest that the people in the State take in this proceeding, have suggested the propriety of their appearing here through counsel or committee and bring certain matters before this investigating committee for their consideration. We have had to adopt some hard and fast rule, and it has seemed wise to us to make a ruling that without a committee or without the gentlemen of the bar who desire to appear for the Assemblymen, as a matter of record in the case, that it will be impossible for us to grant an appearance or grant a hearing along the lines suggested.

Now, we do that with very great reluctance. We appreciate not only the standing — of course, all lawyers appreciate the standing of every bar association — but far and beyond that we appreciate the personnel of the gentlemen that represent the bar here to-day, and I trust that you will appreciate the position that we are in when we say that we must decline to receive any argument connected with this case from any source except the duly authorized attorneys and the witnesses who are brought here subject to this inquiry.

I call your attention to the fact that this Committee is very limited in its power. This Committee is not concerned with the temporary suspension of these gentlemen. At the time these gentlemen were suspended from the House this Committee was not in existence. We were created after that rule or resolution was adopted and this matter was referred to us, and we have accepted it with very grave reluctance. The duty that is imposed on us and our Committee is this: To determine from the evidence as to the qualification and eligibility of these gentlemen and report to the House.

Now, we haven't any concern. We haven't any power to pass on the question, or take up the question as to whether it was proper to suspend these gentlemen or not. That is the action of the Assembly itself. It seems to me that if a memorial is to be addressed by your Committee to the Assembly of the State of New York it should be addressed by your Committee to the

Speaker of the Assembly or through some member of the Assembly to the Assembly itself at its session, and that it is not a proper matter to be brought before this Committee under the very limited scope that we have, and under the very limited power that is given us.

Now, I have tried to make myself clear and I want to be entirely courteous in the matter.

Mr. Hughes (starting to speak).— Mr. Chairman, I appreciate duly the fact that the Committee is the judge of its own procedure, and I would pray the leave of the Committee to submit a statement for the consideration of the Committee which the special committee that I have the honor to represent has prepared — and that statement concludes with a suggestion to the Committee in a very few words, that is pertinent to the authority that that Committee possesses, as we believe, in accordance with precedent. I understand that all committees having to deal with matters of this sort in Congress or with the Legislature of this State have generally considered proper procedure and have made report generally upon the principles and practice involved; and I suggest that this statement which we submit but which, in view of your disposition of the matter, I will not undertake to read or state orally, but I ask to state the conclusion of the statement, the suggestion of this special committee, to the effect that the Judiciary Committee at once report to the Assembly that there is no question properly before the Judiciary Committee of any disqualification on the part of these members; that no charges against these members of any constitutional disqualification or of any misconduct in office or of any violation of law on their part have been properly laid; that the members under suspension should at once be restored to the privileges of their seats, and that if it is desired to present any charges against them of any violation of law, such charges should be properly formulated, and that until such charges, properly laid, have been established by proof after due opportunity to be heard, these members shall enjoy all the privileges of their seats in recognition of their own rights and of the rights of their constituencies.

In support of that we submit this statement and the accompanying brief for the consideration of the Committee.

The Chairman.— The distribution of those briefs creates confusion here and I desire to have it suspended.

The Committee have thought it wise, in their executive session, to present for the consideration of the members who are under investigation the following statement, which I desire to present as an expression, perhaps, of our understanding of the matters that are to be brought up for the consideration of the Committee.

The Assembly having passed a resolution denying Louis Waldman, August Claessens, Samuel A. deWitt, Samuel Orr and Charles Solomon their right to a seat in that body pending the determination of their qualifications and eligibility, and having referred the question so raised to the Judiciary Committee for its determination, and the Assembly having empowered the Judiciary Committee to subpoena and examine witnesses and documentary evidence to enable it to become possessed of the essential facts bearing on the matter, as Chairman of the Judiciary Committee and in its behalf I am directed to say that we have formulated rules of procedure to govern our conduct and that the men above named have been duly furnished with copies thereof. Information came to the Assembly through various channels that the men mentioned in this proceeding were members of a party or society whose platform of principles and whose doctrines as advocated today called for and demanded the complete destruction of our form of government by the fomentation of industrial unrest, the bringing into play of force and violence and direct actions by the mass. That the men here mentioned, affiliated with that party or society, have subscribed to and advocated such principles and are in favor of the absolute substitution of minority for majority rule. That they are in hearty accord and sympathy with the Soviet Government as it exists in Russia today and they have declared their solidarity therewith. It is claimed, among other things, that in 1917 when our country was at war with Germany and summoned the strength of the people to that great struggle, the party or society to which these men belong and to whose program they have subscribed, in open convention and with calculated deliberation denounced the war as criminal, its purposes capitalistic, its motive profiteering, and pledged every man in that party to oppose the war and all the means adopted by the government for carrying on the war in every possible way. That the men herein named by voice and vote in public and in private opposed every measure intended to aid the prosecution of the war to a successful conclusion and gave aid and comfort to the enemy. It is claimed also that in August, 1919, after the schemes and

program of the Russian Soviet Government were fully known and their practices and principles fully revealed, the Socialist Party of America, of which these men are members, in deliberative convention declared their allegiance to and solidarity with such Russian Soviet Government. That they secured their nomination and procured their election under the pretense to the people that they were merely availing themselves of a legally established means for political representation, whereas in truth and in fact it is claimed that this was done to disguise and cover up their true intent and purpose to overthrow this government, peacefully if possible, forcibly if necessary. It was claimed these men have taken an oath to support the Constitution of the United States and the Constitution of the State of New York and that they have made no promise in conflict with requirements of such oaths. The claim is made that these men are with others engaged in a large and well-organized conspiracy to subvert the due administration of law and to destroy the right to hold and own property honestly acquired, to weaken the family tie which they assert is the seed of capitalism, to destroy the influence of the church and overturn the whole fabric of a constitutional form of government and our inquiry will be conducted with a view to ascertain and determine whether there is truth in such information. We intend the men under investigation shall have fair play. The case is not prejudged. The Committee sit with an open mind. The men shall be accorded the right to select their own counsel and assistance will be given them in the procurement of evidence. After the close of the investigation and after the submission of the matter by counsel for the interested parties the Committee will with all convenient speed report to the Assembly its determination.

The Chairman.— I make this statement for the purpose of outlining in a general way the matter as we understand it. Now, if you gentlemen who represent the Assemblymen have prepared such statement and if you desire to file it at your leisure that will be something of a guide on both sides in the conduct of the case.

I will have to have it quiet here.

Mr. Hillquit.— Mr. Chairman and gentlemen of the Assembly Committee: Before proceeding to the taking of testimony and to the trial of the charges on the merits I desire in behalf of the accused Assemblymen to make several preliminary motions. I suppose I am in time now?

The Chairman.— Yes, sir; you are.

Mr. Hillquit.— Thank you. In the first place, then, in behalf of such Assemblymen, I challenge the right of this Committee, the Judiciary Committee of the Assembly, to conduct this proceeding and I move you that the Committee report back to the Assembly a recommendation that the case be tried by a special committee elected by the Assembly and not appointed by the Speaker, to be composed of such members of the Assembly, who have either voted against the resolution, which is your authority, or who have subsequently voted for its reconsideration. Now, Mr. Chairman and gentlemen, we want to be distinctly understood that we are not animated by any sentiment or personal resentment, and that we do not imply or desire to imply the slightest reflection upon any member of your body. We make this motion because we feel that we must make it in the interest of fair play, in the interest of justice as well as in the interest of the five men who are now being tried before your Committee or about to be tried. Gentlemen, whatever the nature of this proceeding may be technically designated or whether it may be designated as a public hearing or as your Chairman has stated, as a special trial of charges against five citizens elected to the Assembly and now under charges for their seats, it is a trial. It is a trial, and you are the judges, as well as the jury in our case. It is true your determination will not be final but it is also true that you gentlemen will pass upon the admissibility of evidence or the inadmissibility of evidence; you will make the findings of facts; you will report your conclusions and recommendations to the Assembly; you are in the position of a referee. You are a trial body and one of the first requirements of any kind of a trial body, whether it be court without a jury; whether it be jury; whether it be a Grand Jury; whether it be a court-martial, is that the judges must be clear from any bias. Must not have formed an opinion of the guilt of the defendants. Otherwise, it isn't a trial. Otherwise it is merely a farce in which we go through the motions of a trial without reaching its substance.

Now, Gentlemen, our objection to your body as a whole is a twofold one. We hold, in the first place, that you were appointed and selected by our accuser and we hold in the second place that you have publicly, solemnly expressed your conviction of the guilt of the men who are before you now. Just on the question of this

very guilt, you will remember how this proceeding came about. They were instituted not by the Assembly but they were instituted by the Speaker of the Assembly. They were instituted in this manner: The five men before you now, Mr. Chairman, were suddenly and without warning called before the bar of the Assembly and there without any charges having been served, let alone investigated or tried, the Speaker of the Assembly addressed them in this way: (Reading) "You who I have summoned before the bar of this House are seeking seats in this body. You who have been elected on a platform that is absolutely inimical to the best interests of the State of New York and of the United States,"—a specific, concrete, definite, affirmative declaration of the guilt of these five men before they had ever been charged with any guilt. Then he proceeds further and still in the absence of any charge and states, "It is, therefore, quite evident that you, elected to public office in spite of your oath of office, are bound to act subject to instructions received from an Executive Committee which may be made up in whole or in part of aliens or alien enemies owing allegiance to governments or organizations whose interests may be diametrically opposed to the best interests of the United States and of the people of the State of New York."

Thus the Speaker of the Assembly appears as the first accuser of these five men. Mind you, he does not say as this statement now read by the Chairman says, "It is claimed—information has come to us"; he makes the very definite positive statements to the effect that these men are guilty of the charges. Thereupon having made that concrete and definite statement ipso facto and not in the shape of this posthumous resolution reciting all these facts, the very same Speaker having had the question referred to your Committee, the Judiciary Committee, which was not then appointed, proceeds to the appointment of the personnel of your Committee, fully. Thus in other words the accuser selects his own judges. Imagine, gentlemen, an analogous case, a criminal case, for instance, in which a prosecuting attorney would appoint his judge.

Imagine a civil case in which the plaintiff would choose and appoint his judge to set on his case. Has there been any such proceeding attempted anywhere, I ask you, in any tribunal, no matter of what character in this country? Never, I make bold to state. Then, after that, there is an excuse offered, and the members of the Assembly vote, and you gentlemen, as I under-

stand, vote, which does not recite the existence of certain charges against these men, but recites a very definite and concrete conviction of their guilt again. The resolution in question, after reciting "Whereas, Louis Waldman, August Claessens, Samuel A. deWitt, Samuel Orr and Charles Solomon are members of the Socialist party of America; and Whereas, the said Socialist party did, at its official party convention held in the city of Chicago, Ill., declare its adherence to and solidarity with the Soviet government" and further on: "Whereas, the said party" has taken this position or that, proved its disloyalty — it is all in the shape of absolute and definite charges — it winds up in this way: "That whereas, the said Louis Waldman, August Claessens, Samuel A. deWitt, Samuel Orr and Charles Solomon, members of the Socialist party of America, having been elected upon the platform of the Socialist party of America, have thereby subscribed to its principles and to its aims and purposes, against the organized government of the United States and the State of New York, and have been actively associated with and connected with an organization convicted of a violation of the Espionage Act of the United States.

"Therefore be it resolved, That" we suspend them and investigate them.

In other words, the proceeding starts out with the proposition of the sentence and the ordinary speech of the judge from the bench following a conviction. It is then followed, not by charges even, but by a recital of findings against these men, and after all has been said and done, after they have been told definitely that they are criminals, they are told "Now get out of this company of decent men, and come back later and we will try you and find out whether or not you are actually guilty." I submit, gentlemen, that all of you who have voted on this proposition and have solemnly declared your belief in the guilt of those men and have not retracted it on voting for consideration, stand here not as judges but as accusers.

And, gentlemen, I want to say to you if there was ever a case in the annals of jurisprudence in any State of the Union that presented an importance similar to the one now before you, I don't know of any such case. If there ever was a case where we have a right to absolutely unbiased judges — if there ever was a case in which we have a right to have each and every one of our trial committee to come to this case without the slightest preconception,

to come to this case absolutely free to decide upon the evidence — this case before you is such a case. And if ever there was a case in which the judges, or the vast majority of them, were publicly, definitely committed in advance to one side — and that to the guilt of the defendants before them — this is the case before you.

I, therefore, gentlemen, again suggest that the proceeding may be somewhat unusual, the circumstances are somewhat unusual. Let us all feel, let the people of the State feel, that these men are not having a mock trial, that they are having a real trial, that they are being tried before judges not informally pledged to do justice to them, but who in their hearts and consciences can render justice to them. I request your immediate adjournment.

The Chairman.— Is there any statement?

Mr. Stanchfield.— Speaking, if the Committee please, for counsel who represent the Assembly and this Committee as well, I trust this motion will not prevail, and it may be well, Mr. Chairman, upon the threshold to define and explain and make clear precisely the character of this proceeding.

It is, Mr. Chairman, an undisputed fact that practically since New York became a State in the Union its Constitution in spirit to 1821, and in letter, from 1821 down until to-day, nearly a century, has always provided that each house of the Legislature should be the judge of the eligibility and the qualifications of its members.

Now, it may be said to the honor and the lasting credit of the Empire State that never until the present time has either branch of the Legislature of this State been called upon to act under circumstances similar to those that are presented to-day. There are precedents for this proceeding, many of them in the Federal Congress, and in order that the Committee may understand precisely what has been held and determined in the Senate of the United States, and in the lower house of Congress as to its power in circumstances akin to these, I purpose to read briefly from a proceeding that was had in the Senate of the United States testing the eligibility some year ago of Senator Smoot.

Mr. Hillquit.— Will Mr. Stanchfield permit me for a moment. I am not in the habit of interrupting, as you know.

Mr. Stanchfield.— You are quite in order.

Mr. Hillquit.— I expect to argue that point presently.

Mr. Stanchfield.— I am answering your motion now and I propose to follow my own thought in that respect.

The Chairman.— Mr. Hillquit, you shall have the opportunity.

Mr. Hillquit.— I understand. I was merely trying to help the Committee keeping it in line with orderly procedure, because I expect to make a motion on that line.

Mr. Stanchfield.— In the particular instance to which I am directing the attention of the Committee the following report was made by the Committee that had in charge the investigation into the eligibility and qualifications of Senator Smoot, and this statement occurs before the proceeding to an examination of the project and the testimony taken by the Committee. It may be well to examine briefly the authority of the Senate in the premises, and the nature and the scope of the investigation. The Constitution provides, and the Committee will understand I am now reading, of course, an excerpt from the Federal Constitution, the Constitution provides that "each house shall be the judge of the elections, returns and qualifications of its own members." Precisely the phraseology under which this Committee is now proceeding. The report continues: "It is now well established by the decisions of the Senate in a number of cases that in order to be a fit representative of a sovereign State of the Union in the Senate of the United States one must be in all respects obedient to the Constitution and laws of the United States, and of the State from which he comes, and must also be desirous of the welfare of the country and in hearty accord and sympathy with its government and institutions. If he does not possess these qualifications, if his conduct has been such as to be prejudicial to the welfare of society of the nation or its government he is regarded as being unfit to perform the important and confidential duties of a Senator and may be deprived of his seat in the Senate, although he may have done no act of which a court of justice could take cognizance."

I read that excerpt because of its broad and comprehensive character, and because of the further fact that in the progress of this proceeding, and in a measure controlling the action of counsel who represent the Committee, it will be accepted and taken as a guide.

Passing for a moment to the case now the subject of investigation, the document which the Chairman has read constitutes, upon

its face, an accusation so plain, so clear, that no one who understands the English language can fail to comprehend its import and its purpose. In a word, the claim is made that the five men that are now under investigation here are members of a party or society whose platform of principles and whose doctrines as advocated to-day call for and demand the complete destruction of our form of government by the fomentation of industrial unrest, the bringing into play of force and violence and direct action by the masses; that the men here mentioned, affiliated with that party or society, have subscribed to and advocated such principles, and are in favor of the absolute substitution of minority for majority rule.

I am not at this moment intending to read in the balance of this statement. Suffice it to say that it is broad, complete and comprehensive, and counsel for the Committee intend, and I say it with the certainty borne of conviction, to establish upon this hearing that the five men who are involved in this investigation have planted themselves upon the platform indicated in the document that the Chairman has read; that they have subscribed to the principles and they have advocated the doctrine and they uphold the plan indicated in the paper to which your attention has been called by the Chairman of this Committee.

How else, may I inquire, Mr. Chairman, could these proceedings be instigated and set upon foot, except through the instrumentality of the presiding officer of the Assembly of the State of New York? We take the position, as counsel for the Committee, that information came to the Speaker that these five men were actuated by the motives, controlled by the purposes, and stood sponsor for the principles to which I have called so briefly your attention, and, having that thought in mind, he felt that it was his duty to deny to these men the right to a seat in the Assembly of this State until a committee of lawyers, thirteen in number, should carefully investigate the information that came to him and report back to the body at large the result of the proceedings that had been had before them. And if there be a Committee in the Assembly of New York who are educated, trained, born and bred to the spirit of asking and giving fair play it is a committee of the bar. It is their function and their duty, their occupation and their vocation everywhere, at all times and under all circumstances, to see that fair play is both had and given.

We, therefore, come before such a Committee, and as counsel

for the Committee we expect in the progress of this investigation to convince you by indubitable proof that every suggestion that is embodied in this comprehensive paper read by the Chairman is based upon a solid and a substantial foundation.

Therefore, in conclusion, let me suggest there is no merit in the motion that this Committee will not extend to these five men a fair and open and candid hearing. We resort, Mr. Chairman, to no technicalities. These gentlemen are entitled to no representation, and this Committee itself could go ahead in secret and take testimony and report to the House and upon that report expulsion could be had and no one could complain. Quite the contrary. The Assembly of New York, realizing that it is submitting itself, its conduct and its report to the Court of Public Opinion, for there is no other tribunal that can question your power or criticize your purposes or your motives, they have elected, therefore, to pursue this course, and in conclusion we submit that it is palpably and manifestly fair, and that no one has a right to complain, but that during the progress of this proceeding every possible right of the five men will be safeguarded and secured.

The Chairman.—New matter having come up, Mr. Hillquit, we should be pleased to hear your views on that.

Mr. Hillquit.—My very distinguished friend on the other side has evidently not grasped the point I made. The point that I made was not that charges had been preferred by the Speaker of the Assembly, or by anybody else, but the fact that both the Speaker and the members of this Committee have expressed a definite opinion of the guilt of the men now before them.

Now, I should like to read a few very enlightening statements on this very subject. It comes, I think, from good authority. In a somewhat similar case of a Judge of the Supreme Court being tried before the Joint Houses, I believe, or a tribunal of both houses, eminent counsel engaged in that trial said as follows:

“One of the rights secured to an accused person by the law of the land is that his accuser shall not be at the same time his judge. That is a principle of law that is fundamental. It is the first requisite to a fair and impartial trial. It is a privilege that the law of the land guarantees to every man when his life or his liberty, his good name, fame or property, is involved. It is a maxim of every code in every country that no man shall be a judge in his own case.”

I contend that in this particular case our opponent, if you want to use the phraseology customary in trials, the man who first expressed not merely a suspicion of our guilt, not merely the fact that he had been informed of certain charges, but an absolute conviction, is the man who constituted this tribunal.

The men who pass the resolution saying to the whole world these five men are guilty of disloyalty, are unfit to sit in the Assembly, are the men who are now trying us on these very charges, and if there had been no other way; if there had been no other possible tribunal, perhaps even this anomaly should have to be tolerated. But there is another way. There are at least 33 members in the Assembly who have shown themselves unbiased enough to constitute a committee from the Assembly, and again reverting to the other case, I quote counsel again in this language: (Reading) "I defy any counsel who represent the opposition in this proceeding to show me a case reported in any civilized nation which holds that where there is a tribunal that we can go to an accuser or a disqualified judge is permitted to sit. There would remain after the Assembly Judiciary Committee had been excluded enough members elected to the House or Assembly to elect two-thirds vote in favor of the defendant." The statement was eloquently made and was convincing and was made by my very distinguished friend, Mr. John B. Stanchfield. I hope he remembers it.

Mr. Stanchfield.—Just a word in reply. I am not going now to take the time to discuss the difference between proceedings to remove a Justice of the Supreme Court and the method of the Assembly of the State of New York to pass upon the question of eligibility and qualification of its own members. There is a wide and vast distinction between the two. The Committee whose fairness has been challenged by Mr. Hillquit, it seems with four exceptions is the same committee as constituted the Judiciary Committee of 1910. There are these exceptions: Mr. McNab of Schenectady and Mr. Pierce of Clinton have been succeeded by representatives upon the Committee from those counties. Mr. Goldberg of New York and Mr. O'Hare of Queens were appointed at the instance of the organization of the counties from which they came. Their successors—I am corrected by Mr. Littleton—were appointed. So there can be no question about this Committee not being a representative Committee of the Assembly of New York to determine this question. There is no

other tribunal to pass upon it. Back in the days when Governor Flower occupied the Executive Chamber, for the second time a proposed amendment to the Constitution passed the Legislature conferring upon the courts the right to hear and determine all controversies with regard to contested seats in the Assembly or the eligibility of members. That amendment having passed two successive Legislatures was submitted to the people in a vote and was defeated by the people of the State of New York, thereby indicating a design and desire upon the part of the people to have that power to pass upon the eligibility of the returns and the qualifications of members remain where it had been for substantially a century, in the Legislature itself.

Now I submit once more that this motion, Mr. Chairman, ought to be denied.

The Chairman.— Any further argument ?

Mr. Hillquit.— On this particular motion none.

The Chairman.— The Chair feels constrained to deny the motion and in order to protect any rights which Mr. Hillquit, the counsel, may have, I think you better note that the counsel for the Assemblymen except to the ruling of the Committee and the Chair on that motion and have the exception noted. Also, please have the record note that the counsel for the Assemblymen are given the privilege of filing such a statement by Friday. Would that be ample time ?

Mr. Hillquit.— Friday ?

The Chairman.— By Friday as they see fit in answer to the statement made by the Chairman of the Committee.

Now what further, Mr. Hillquit ?

Mr. Hillquit.— The challenge to the general panel of the Judiciary Committee having been overruled, I desire to offer a challenge to several individual members of the Committee for personal bias. I challenge the right of such members of the Committee here to sit in judgment in this proceeding as having also been and are members of the legislative committee for the investigation of certain radical activities, popularly known as "The Lusk Committee," that includes, I believe, two members of this Committee, the Chairman and Mr. Pellet. My motion is based —

The Chairman.— Mr. Martin and Mr. Jenks.

Mr. Hillquit.— Again, of course, I suppose it is not necessary for me to reiterate that there is no element of personal feeling in the matter.

The Chairman.— Not at all.

Mr. Hillquit.— We do so because it is a familiar rule of the floor that where a person has sat in an inquiry which is involved in a second proceeding, he is not a fit juror or judge in the second proceeding. The Lusk committee has been more than a mere committee of investigation.

It has formed very definite opinions against the very organization whose platform and policies are here alleged as the basis of the proceedings against the five Assemblymen in question. They have stated their definite conclusions and opinions through the press and otherwise publicly; they have gone out of their way to instigate what we consider to be perfectly illegal raids against the very organization here involved and some of its branches.

We also challenge the right of the Chairman of this Committee to sit in judgment for the reason that he had publicly stated an opinion in the case which in every ordinary case would disqualify him from sitting in judgment. I refer to the publicly reported statement of the Chairman to the effect that he was about to introduce legislation declaring the Socialist party of the State as an outlaw organization, practically the exact statement — I read from "The World," of January ninth — is:

"The chairman of the Judiciary Committee — Mr. Martin — who is a member of the Lusk committee, said to-day he contemplated introducing bills to prevent Socialists and all members of kindred radical organizations from holding public office in this State."

If the report is true — and it has not been denied as far as I know — Mr. Martin certainly has shown a very definite preconception against the Socialist party. Having reached the point that he is about to frame legislation to prevent this party or its members from holding public office in the State, he certainly must have reached the conclusion that the Socialist party is not a legitimate political party, but is a quasi-criminal outlaw organization, in which state of mind I cannot conceive how he can properly participate in or even preside in a proceeding of this

kind, in which this question is the question and the sole question at issue.

I further challenge, individually, Mr. Cuvillier, a member of this body, on the ground that he is reported to have stated in this very body, the Assembly, as late as last night, that if the five accused Socialist Assemblymen are found guilty they ought not to be expelled but taken out and shot. Mr. Cuvillier also voted in favor of the resolution which affirmed his conviction in the guilt of the five men. Thus, one of you gentlemen, one of our judges, is on record with two statements. One that he is convinced of the guilt of the five men, and that the other, if guilty, they ought to be shot,—I respectfully submit that a person who holds such an opinion is qualified as an executioner and not for a judge.

The Chairman.—Can I see that interview, Mr. Hillquit?

Mr. Hillquit.—(Handing newspaper item to the Chairman.)

The Chairman.—(Indicating) Is this the one that you refer to?

Mr. Hillquit.—That is the one I refer to, Mr. Martin.

The Chairman.—Where is it?

Mr. Hillquit.—(Indicating) Here it is.

The Chairman.—The proceeding seems to be toward the trial of the Chair.

Mr. Hillquit.—Well, for a change it may not be a bad idea.

The Chairman.—I would like to have it appear on the minutes, with relation to the interview given on the 9th day of January, 1920, purported to have been given to the New York "World" at the city of New York—I would like to have it appear on the minutes that the Chairman of the Committee states he gave no such interview. At the time of the alleged interview he was in Clinton, and was not in New York at all. I would like the minutes to show that.

Mr. Hillquit.—Upon this statement, Mr. Chairman, I desire to withdraw my challenge on that particular point.

The Chairman.—That is very nice of you. I feel this about it: If I gave such an interview I would be very frank to say I would rather not sit in a case of that kind. But I gave no such inter-

view and I was not in New York at the time. I am not responsible for what some newspaper says.

Colonel Wells.—I have been sitting here for some time and I deem it proper now to ask that when the testimony is given it be given sufficiently loud enough so that we all may hear it. I think we should all hear everything that is said.

The Chairman.—Your request will be granted, Colonel Wells. Are there any further requests, Mr. Hillquit?

Mr. Hillquit.—Yes, sir.

The Chairman.—I should like to have it appear on the minutes that the motion is overruled.

Is there any further motion?

Mr. Hillquit.—Yes, sir. The other motion I have, Mr. Chairman, will be a motion to dismiss the proceedings on the ground that they are not warranted.

The Chairman.—Not what?

Mr. Hillquit.—Not warranted by the Constitution or by any statutory law of the State. I may say, Mr. Chairman, that I expect to take a little time on it. I think it is the crux of the situation and I expect to take about an hour. I submit to the Chair whether we should rather start in now, or whether you prefer to take it up after adjournment.

The Chairman.—You mean after lunch?

Mr. Hillquit.—Yes, sir.

Attorney-General Newton.—We did not hear the first of what Mr. Hillquit said.

(The reporter then read back as requested.)

Mr. Stanchfield.—Then, I suggest that we take it up at 2 o'clock, because there will be quite considerable argument on both sides.

The Chairman.—Is that agreeable to you, Mr. Hillquit?

Mr. Hillquit.—Entirely.

The Chairman.—Assuming it is agreeable to all parties, the Court will take a recess until 2 P. M. That means 2 P. M.

(Whereupon at 12.40 o'clock P. M. the Committee recessed until 2 o'clock.)

AFTER RECESS

The Chairman.—Are there any gentlemen of the press that haven't been accommodated with seats? If so, I shall have to ask to arrange whereby they can be seated. The people in the room will have to maintain the strictest order on account of members of the Assembly who are here outside the Committee and who are very desirous of hearing everything connected with this examination and they informed me that they have difficulty in following the counsel. The counsel will do the best they can to speak as distinctly as possible.

I think Mr. Hillquit's motion is now before the House.

Mr. Hillquit.—Mr. Chairman and gentlemen of the Committee, I move at this point that the proceedings before this Committee be dismissed and that the Committee report to the Assembly recommending the immediate dismissal of the proceedings now pending before it in connection with the five Assemblymen under charges on the ground that the proceedings are without warrant in the Constitution or in the statutes of the State of New York and are absolutely illegal and void from every point of view. I maintain in other words, Mr. Chairman, that if every word of the resolution was proved to be true, if every charge read this morning by the Chairman of the Committee was proved beyond a shadow of a doubt to be true, that even then this Committee and the Assembly are absolutely without power to suspend or expel the five members of the Assembly under charges; that so long as there is no question about their election; that so long as there is no question about the fact that they are citizens and residents of this State and have taken the oath of office, that ends the power and jurisdiction of the Assembly with reference to them.

I know a general impression has gone forth to the effect that the Assembly is all-powerful in determining as to whether or not members presenting themselves with proper credentials, proper on their face, may be seated or not. I maintain that this impression is without foundation in law and is absolutely erroneous. The section of the Constitution upon which this power is assumed to rest is section 10 article 3 which reads as follows: (Reading)

"A majority of each house shall constitute a quorum to do business. Each house shall determine the rules of its own proceedings and be the judge of the election returns and qualifications of its own members." It is the latter part of it, "to be the sole judge of the qualifications of its own members," that is popularly and loosely construed as conferring the power upon the Assembly to add such qualifications as may to it seem sufficient to those contained in the Constitution.

I shall try to demonstrate by the expressed provisions of the law, by all the precedents in this State, and similar precedents in other States, as well as the Congress of the United States, and also on the basis of the general spirit of the Constitution of our State, of the institutions of our government, that this contention is absolutely fallacious.

What we contend is that the Assembly has the power to judge the elections, returns and constitutional qualifications of members when such elections, or returns, or constitutional qualifications, are called into question. When a question of fact arises and some body — some authority — has to pass upon such question then, and then only, it is the Assembly, in this case, that has the power and the right to pass upon such question.

In other words, the law provides that the Assembly be composed of 150 members who shall be duly elected by the plurality of the votes cast at the legal election, and the law — the statute — further provides that such members must be citizens and must be residents of the State of New York, and must be of full age.

It is of course conceivable, and it very often occurs that all of these elements are questioned. For instance, an election may be held but it may only be a legal election in form. It must not be a legal election in substance. It may be a fraudulent one. It may be a corrupt one. The returns on their face may indicate that a plurality of the votes was cast for a certain candidate, yet it may be contended that the actual facts are in conflict with such returns; that more votes had, as a matter of fact, been cast for opposition candidates, at any rate a larger number of legal votes. It may be contended that a member presenting himself for a seat in the Assembly is not a citizen, is not of age, is not a bona fide resident of the State of New York. It may be contended that he has lost his citizenship by conviction of a felony. It may be contended that he has no actual capacity as a citizen by reason of being insane and adjudged insane; or it may be also that he is

afflicted with a loathsome contagious disease, and within the exercise of police power, just as a sanitary regulation, he may have to be excluded from the community of other men.

Whenever a question of this kind arises it is up to the Assembly, and to the Assembly alone, to judge whether or not the alleged state of facts required for full qualifications of a member exists; whether he has been legally elected in an honest, uncorrupted election; whether he has actually received a plurality of the valid votes cast in that election; whether he is actually of age; actually a citizen; whether he is actually a resident of the State with all the other implications I refer to. And I maintain that that and only that was what the framers of the Constitution had in mind when they provided that the Assembly shall be the judge of the election returns and qualifications of its own members.

I direct the attention of the gentlemen of the Committee to the specific language. It is not an omnibus provision to the effect that a majority of the Assembly may seat or refuse to seat anyone they please — no — the Assembly is to be the judge — which presupposes, upon a contested state of facts of the allegations, returns and qualifications of the members, after the same Constitution had definitely excluded certain classes of citizens from the right to hold seats in a legislative body.

By section 8 of article III, the Constitution provides:

“That no person shall be eligible to the Legislature who, at the time of his election, is, or within 100 days previous thereto has been, a member of Congress, a civil or military officer under the United States, or officer under any city government.”

Now, there is a qualification stated negatively: A person who holds such office is barred from holding a seat in any of the legislative chambers. A person who is not a citizen, likewise, is — but I contend that the Constitution not only did not intend — or rather the framers of the Constitution — not only did not intend to convey by this expression a general power to each of the two houses to devise out of the depth of their own consciousness or their own notions of expediency or propriety, any qualifications not mentioned in the Constitution — I will say more, gentlemen; I will say that the Constitution has, in express terms and unmistakable language, so said.

I was somewhat surprised that in all the learned and semi-learned discussions on the subject with which the press was so

replete during the last couple of weeks, the one direct provision of the Constitution on this subject has been lost sight of. Fearing that, perhaps, you gentlemen of the Assembly have likewise — I mean of this Committee — have lost sight of it, permit me to call your attention to it.

Under article XIII of the Constitution of the State of New York it is provided by section 1 as follows:

“Members of the Legislature and all officers, executive and judicial, except such inferior officers as shall be by law exempt, shall, before they enter on the duties of their respective offices, take and subscribe the following oath or affirmation; ‘I do solemnly swear and affirm that I will support the Constitution of the United States and the Constitution of the State of New York, and I will faithfully discharge the duties of the office’”—in this case of member of Assembly — “‘according to the best of my ability.’”

These five men before you have taken and subscribed to such an oath.

Now, the section further provides:

“And all such officers who shall have been chosen at any election”—applying the particular extent — “before they enter on the duties of their respective offices, take and subscribe the oath or affirmation above prescribed, together with the following addition thereto, as part thereof: ‘And I do further solemnly swear or affirm that I have not directly or indirectly paid, offered or promised to pay, contributed or offered or promised to contribute, any money or other valuable thing as a consideration or reward for the giving or withholding of a vote at the election at which I was elected to said office; and have not made any promise to influence the giving or withholding of any such vote.’”

That has been sworn to by these five men. And then, gentlemen, mark what follows: “And no other oath, declaration or test shall be required as a qualification for any office or public trust.” Let me repeat that. After the oath prescribed by the Constitution “No other oath or declaration and no other test shall be required as a qualification for any office or public trust.”

What, I ask you, gentlemen, did the framers of the Constitution intend to convey by this very direct, very explicit injunction? There can be but one thing. To prohibit absolutely and definitely a pro-

ceeding of the kind in which you are engaged now, gentlemen — that is, adding another test other than the constitutional oath as a qualification for holding the office of member of Assembly. A test! What is a test? Let me read you some Standard dictionary definitions of the word “test.” “A test is an examination made for the purpose of proving or disproving some matter of doubt. A critical trial.” A test is the thing in which you are engaged now. The effort, the proving or disproving of the charges contained in your resolution — proving or disproving the alleged loyalty or other outside political, ethical or patriotic qualifications of members of the Assembly. Such a test is expressly prohibited by the Constitution for very good reasons, as we shall come to in a moment. A further definition is “That which may be used to determine a question relating to the existence, the qualities or the genuineness of a thing, a criterion, a standard of judgment.” From every point of view a test is a proceeding such as you are engaged in to discover qualifications or absence of qualifications. Such a test, other than the one contained in the oath of office to support the Constitution, and the further oath to the effect that the member of the Assembly presenting himself had not been guilty of corrupt practices in connection with his election.

Such a test is absolutely and in express terms prohibited by the Constitution. We could generally rest on that, for it seems to me the proposition is absolutely unanswerable if the framers of the Constitution thought it necessary to make express provision to this effect, an express prohibition of imposing a new test, then you have no right; you have no authority to impose such a test. But I will say to you gentlemen that we do not have to rest upon the express language of the Constitution alone, all-sufficient as it seems to be; we make the contention here that all precedents of this House or of this Senate of the State of New York and of all other legislative bodies in the United States, including both houses of Congress, have always uniformly and without any deviation so held. In other words, that the proceeding which you have initiated by the resolution before you is absolutely unprecedented, absolutely unsanctioned. My learned friend on the other side has quoted from precedents of the United States Congress, the upper House, as it happens to be. He has properly maintained that the precedents of Congress are applicable to this case because they arise under the same wording of the Constitution, namely, “each house shall be the judge of the elections, of

the returns and qualifications of its members." Now, let us see. What are the precedents? First, in the lower house of Congress, the House of Representatives. There are three classes of cases in which members who have presented themselves with credentials sufficient on their face as to whose election by plurality "there was no question" have been excluded from the House. Roughly speaking, we may designate them as the cases arising from the Civil War, the Roberts case, which is in a class by itself, and a very recent instance so frequently quoted in this connection, the Berger case, which is likewise in a class by itself.

In the Civil War cases of which there were several, the situation was of course vastly more aggravated than is claimed to be in this case. There are persons who had taken active part in the rebellion, who had actively supported the Confederate government, who had borne arms against the United States, presented themselves for seats in the House of Representatives of the United States.

And, gentlemen, not in one instance did the House reject them merely on the ground of their disloyalty, and upon its own sayso.

The House laid down the doctrine at the time that it has not the power to bar a member who presents himself with proper credentials in the absence of expressed statutory or constitutional authority.

They attempted first to cure the defect by legislative enactment which was more than a mere act of one House. It was the solemn enactment concurred in by both houses, signed by the President imposing a test oath upon the members in question. An oath to the effect that they had not supported rebellion against the United States, and that oath, and the legislation supporting it, solemnly as it was enacted by both houses, law as it had become upon the statute books, was held to be insufficient authority for the House of Representatives to bar men who had taken an active part in the rebellion against the United States, and thereupon a constitutional amendment was adopted, just to meet this occasion. It was found that unless there be express constitutional warrant to bar these men, the House of Representatives had no such power. That no matter how glaring the case seemed to be, no matter how revolting the feelings of the then called loyal majority, they had no power to expel those members without express constitutional warrant, and the amendment that was adopted to meet the case

is that embodied in section 3 of the Fourteenth Amendment to the Constitution of the United States, and reads as follows:

“No person shall be a Senator or Representative in Congress or elector of President and Vice-President, or hold any offices, civil or military, under the United States, or under any state, who having previously taken an oath as a member of Congress or as an officer of the United States or as a member of any state legislature or as an executive, or who was an officer of any state to support the Constitution of the United States, shall have engaged in insurrection or rebellion against the same or given aid or comfort to the enemies thereof; but Congress by a vote of two-thirds of each House may remove such person.”

Now then, gentlemen, at the threshold of our consideration of precedents you find that the lower House of Congress, corresponding to the lower House of our Legislature, and acting under exactly the same constitutional warrant, word by word, in order to enable itself to exclude men who had actively participated in the rebellion had to secure a constitutional amendment to that effect, and that prior to such a constitutional amendment they had no such powers, not even under a statute, let alone under the rules of their own House.

It did not occur to the House to say “We are the judges of the qualifications of our members, hence we consider that a member who had fought with the Confederate forces is not qualified.” No, we frankly admit that the qualifications referred to by the Constitution were expressed constitutional qualifications, and in order to secure such power they had to have an amendment to the Constitution.

That, gentlemen, was the first class of cases in which the House of Representatives assumed to exclude members. I repeat, it was by express constitutional warrant.

Then, came the Roberts case, which was a somewhat different case, and very much different from the case at bar. There, you will remember the State of Utah had just been admitted to statehood. It had been admitted upon a solemn compact expressed in the Constitution of the newly admitted State to the effect that the inhabitants would give up the practice of polygamy and on top of that compact and condition of admission of Utah as a State, a law was passed by Congress, known as “The Edmonds

Law," which provided, among other things, "That any person found guilty of polygamy was thereby disqualified from holding any office under the Government of the United States, including the office of Representative."

Roberts was an admitted polygamist. He not only admitted it — he refused to promise to discontinue the practice. He was unseated on the ground that he had violated the very organic compact between the State of Utah, which he assumed to represent, and the United States in Congress of which he sought a seat. He was disqualified on the ground that the law — the Edmonds Law — which made polygamy illegal, carried its own provision to the effect that any polygamist shall be disqualified from holding such office, and gentlemen, even in that case, so exceptional, so strong, so different from ours, it was not by unanimous action that the house proposed to expel Roberts.

There was a strong minority and a strong minority opinion, which is so sound, so instructive and so applicable to this case that I must read the concluding paragraph of it for you. It was signed by Mr. Littlefield, one of the ablest men in Congress, and by Mr. de Armond, and reads as follows:

"Then there is no law having any application to this case by which the attempt is made to add anything to the constitutional qualifications. This House, by its independent action, cannot make law for any purpose. The adding by this House, acting alone, of a qualification not established by law, would not only be a violation of both the Constitution and the law, but it would establish a most dangerous precedent, which could hardly fail to return to plague the inventor. You might feel that grave moral and social aspects of this case allowed you to wrest one of the laws to your authority, to do a great right, to do a little wrong — but what warrant have you, when the barriers of the Constitution are once broken down, that there may not come afterward a House with other standards of morality and propriety which will create other qualifications, with no rightful foundations? That, in the heat of unreason and partisan contest, there will be no definite standards by which to determine the existence of qualifications that will add anything that may be necessary to accomplish the desired results? Exigency will determine that sufficiency. It will no longer be a government of laws but of men. To thus de-

part from the Constitution and substitute force for law is to embark upon a trackless sea without chart or compass, with almost a certainty of direful shipwreck."

And this in a case where, admittedly, the applicant for a seat was a law-breaker, a self-confessed violater of the law which, in express terms, disqualified him from holding a seat — an applicant who presented himself in violation of the very act that gave the State of Utah a right to select him — and even in that case the dangers of such a proceeding, of substituting other provisions than those specifically decreed by the Constitution, were clearly seen by the farsighted statesmen of our Republic.

And then comes the latest case, the Berger case. Now, gentlemen, I do not want you to infer for one moment that we hold the expulsion or the exclusion of Victor Berger from the House of Representatives as justifiable by law; on the contrary, we think that it established a very dangerous precedent; I think that that was an act done in the heat of partisan passion which only now begins to mature in these proceedings before this Assembly. But, with all that — iniquitous, illegal, as it was — the proceeding of the House in the Berger case, compared with your proceeding — why, gentlemen, it is the very quintessence of law and constitutionality — because what was the state of affairs there? Victor Berger presented himself with a sentence of twenty years imprisonment for a violation of a Federal law, the Espionage Law.

And still, gentlemen, bear that in mind the Committee who had charge of the proceedings and the House subsequently said in express terms, we are not trying you for your conviction; we are not barring you from this House on account of the conviction. The case is pending on appeal; the judgment is not final and we are not bound by any judgment of any court anyhow. They invoked against Berger, bear that in mind, the provision of the Constitution of the United States which I have just read to you. They said we admit we cannot exclude you except for definitely formulated constitutional reasons, but they said you have been a member of this House before; you have taken the oath of office to support the Constitution of the United States on that occasion. It is charged that you have since given aid and comfort to the enemy and upon this charge and this charge alone we shall try you. Had you not been a member of Congress before, or had not that particular amendment to the Constitution not applied to your case, we should have had no power to exclude you.

Now, then, gentlemen, none of these men has been convicted of any crime. None of these men comes under the provision of the United States Constitution that I have read to you because that applied only to holders of office under the United States. It isn't part of our Constitution; it doesn't apply to members of the Assembly. Whatever warrant or seeming warrant there was for the action against Victor L. Berger, does not exist in the least in this case. There is absolutely no analogy. There never has been an attempt to create new grounds out of the moral conceptions of the majority of Legislature and using such grounds as a bar to members duly and properly elected. Now, gentlemen, my distinguished opponent has also quoted from the famous case of Smoot and I am glad he did. If he had not done so I certainly should have done so with great pleasure. What was the Smoot case? The Smoot case was somewhat analogous to the Roberts case. Smoot likewise came from the State of Utah. He was not personally a bigamist, but the trial committee anyhow subsequently found that he was a member of the body known as the President and the Twelve Apostles of the Latter Day Church Saints. Saints is right, and that as such he was bound by the rules of the church, bound not merely in a sense, if he does not comply with the rules he may be expelled from the church. Now bound by the most sacred ties of religious conviction; bound to the doctrine that that church of which he was a member was receiving direct divine revelations and that any violation of its rules would mean damnation to his soul; that the church was above all earthly institutions including all government; that he had no right to accept nomination or to perform any political act without the sanction of the church; that he owed an allegiance to that church which made it absolutely incompatible with any allegiance to the Government and that the church allegiance was the supreme one. The Committee in charge of the investigation was divided into a majority and into a minority, and the majority made a report, from which Mr. Stanchfield so eloquently read excerpts to you. What was that? It said, it is now well established by the decisions of the Senate in a number of cases that in order to be a fit representative of a sovereign state of the Union in the Senate of the United States one must be in all respects obedient to the Constitution and laws of the United States,—which, of course, means nothing more than to recognize the binding obligation of the Constitution and of the laws, and the implied obligation not to act contrary to it, not to violate either the Con-

stitution or an express law. And also, that he must be desirous of the welfare of his country and in hearty accord and sympathy with its government and institutions. That, gentlemen, is a somewhat lax, loose, phrase which may lead to the inference which Mr. Stanchfield has drawn, namely, that the remainder of the members of the Senate may constitute themselves the judges as to what constitutes and what does not constitute the welfare of the country. I do not suppose for one moment that the drafters of this report had any such far reaching notions in their mind. I do not doubt for one moment that all they meant by that flowery phrase was a repetition of the first proposition in other terms, namely, that a member of the Senate, a member of the House, a member of this Assembly for that matter, is pledged not to violate the Constitution or the laws of the United States or of the State, but, on the contrary, to comply with them and to act along constitutional and legal lines. But, gentlemen, what the drafters of this report meant or did not mean is of very little consequence, and I will tell you why. Because this report was never adopted by the Senate. Because it was expressly rejected by the Senate. Because Mr. Smoot was seated in the Senate, and I will show you on what authority he was seated. There was together with this majority report a minority report, signed by almost — not fully — half of the Committee, including among them an authority on constitutional law, such as Senator Knox, and the minority report was adopted, was substituted for the majority report and adopted by the House. Now, there are a few aspects from this minority report, which became the majority report, and the action of the Senate which are very enlightening on this subject.

In the course of the debates in Congress Senator Bailey, who favored the expulsion of Smoot, made the statement: "Permit me to interrupt you there," that is the counsel for the Committee, "the qualification which the two houses are authorized to judge, are the qualifications laid down in the Constitution questioning the provisions as to age, etc. As I have always understood it, that provision fixes the qualifications of a Senator, and it is not competent either to add to these qualifications or to subtract from them, and that when the two houses are apprised of the elections, returns and qualifications of their members, it has reference to the question of age, citizenship and residence within the state. In other words, the purely constitutional qualifications."

The minority report recommended as follows:

“ Reed Smoot possesses all the qualifications prescribed by the Constitution to make him eligible to his seat in the Senate, and the legality of his election to the Senate by the State of Utah is not questioned in any manner, and Senator Knox arguing upon the proposition made this very illuminating statement: ‘ I do not think the Senate will seriously consider that any question is involved except one of expulsion requiring a two-third vote. There is no question as to Senator Smoot possessing the qualifications prescribed by the Constitution and, therefore, we cannot deprive him of his seat by a majority vote. He was at the time of his election over 30 years of age, and had been nine years a citizen of the United States, and when elected was an inhabitant of Utah. These are the only qualifications named in the Constitution, and it is not our power to say to the states these are not enough. We require other qualifications, or to say that we cannot trust the judgment of the states in the selection of the Senators, and we, therefore, insist upon the right to disapprove of them for any reason. By another provision, namely, that relating to expulsion the constitution enables the Senate to protect itself against improper characters by expelling them by a two-thirds vote if they are guilty of crime, of offensive immorality, disloyalty or gross impropriety during their time of service, because I cannot imagine the Senate expelling a member for causes not falling within one of them. The simple constitutional requirements or qualifications do not in any way involve the moral quality of the man. They relate to facts outside of the rung of ethical consideration, and are requirements of fact easily established. Properly now, therefore, as no sectional partisan or religious feeling did attach itself as to whether a man is thirty years of age, had been a citizen of the United States and an inhabitant of the state for the period described, the decision as there instanced, rests with the majority of the Senate. When, however, a different issue is raised de hors the constitution upon litigation of unfitness, challenging the moral character of a Senator, involving a review of questions

considered and settled in the Senator's favor by action of the state electing him, and the difficult function is to be performed by the Senate calling for its proper exercise the house digresses in reviewing the action of another sovereign."

Smoot was seated in the Senate. He was seated upon this reasoning versed by Senator Knox and by the majority of the Committee. It is applicable on all fours to the case at bar. Here, you gentlemen of the Assembly, likewise have the primary right at the threshold upon a member presenting himself for admission to examine into his election, into the returns and into his constitutional qualifications, and none others; and you likewise have the right subsequently to expel a member for misbehavior in office after charges and after investigation. The legislative law gives you that power separate and apart, but that likewise is not an arbitrary expulsion. That likewise is an expulsion on charges for any misbehavior connected with his office while he is in the Assembly, and that can only take place after a fair and impartial trial upon charges and not otherwise.

Now, gentlemen, those are precedents on the highest authority that I challenge the other side to produce one single instance in which either House of Congress has done what is attempted to be done here — without expressed constitutional warrant, without even expressed statutory warrant — to expel from its midst citizens duly elected to office, on the sole ground that their politics, their views, do not meet with the approval of the majority of the members of the House.

And I do not have to go so far afield. There are other precedents more near at home, precedents in this state, precedents established by this very body, the Assembly.

One, in the case of *Rosenstein v. Eastman*, decided May 3, 1906, holds distinctly that even though the member obtained his nomination by corrupt means, his election by popular vote had purged him and that, in the absence of constitutional qualifications, his seat could not be assailed.

And there is one case particularly which comes even closer to us, closer in point of analogy and closer in point of time. I refer to the case of *Lucas E. Decker*, a member of the Assembly from the fourth district of the county of Queens in the year 1918. In the case of *Decker* the member was charged with having failed to register for the selective draft although he was of draft age; of having falsely represented that he had been examined and

discharged on account of bad health while he had not, as a matter of fact, presented himself for examination at all; and of having in November, 1917, claimed exemption as a member of the Assembly, although his term of office did not begin before January first of the next year. On all these charges, as matter of fact, he was found guilty by the committee. The committee reported that it became Decker's duty to register on July 24, 1917; that he did not do so until November 23, 1917; that he was married November 9, 1917; that he then claimed exemption as a state officer and a married man — you see he got himself purposely married and purposely elected to the assembly to evade the draft; that he was in no sense a state officer until after January 1, 1918; that he was a lawyer and charged with knowledge of the law far beyond that of a layman in like circumstances; and the fact that for at least four months he disregarded the law while advising others to obey it, and assisted in the work of getting other young men to go to the front, would justify any committee of citizens in taking the position which was taken in this matter by the objectors. The report continued:

“For these circumstances were matters of public record during all the period of time said Decker was running for the office of member of the Assembly, and neither denied or affirmed by him as far as any evidence produced before us showed with the exception of the fact that he stated he had been discharged on the ground of defective eyesight; and your committee could not recommend the dismissal of said Decker from the office of Member of Assembly on the ground that he secured his selection by misrepresentation in any way.”

Now, just listen to what follows:

“Since his election, and since he has been in the discharge of his duties as an Assemblyman, there is no evidence that he has committed any act that disqualified him in the judgment of your committee from so acting; that the facts are insufficient for us to hold and recommend that he should be deprived of his office at this time. Your subcommittee holds that in order to remove a member of Assembly from office, under the constitution, some question involving the election or returns is necessary before the Assembly has jurisdiction in the premises; or, further that the person so elected must

be entirely disqualified under the constitution or by his conduct in the house must disqualify himself. These regulations are specifically set forth in the constitution itself, and there is no evidence before us that any of them are lacking, as far as the respondent in this proceeding is concerned. We, therefore, respectfully recommend to the Judiciary Committee that a report be made dismissing the complaint and the said report be by the said committee submitted to the Assembly for further action."

The report was made; you remember the points. They pointed to the fact that no matter how morally objectionable a member's conduct may be in the eyes of his fellow members, so long as he possesses the constitutional qualification, age, citizenship, residence; so long as he has been duly properly elected he must be by constitutional mandate admitted to his seat, and only if he misbehaves as a member on the floor of the House can he be expelled. This is very much to the point, gentlemen, is it not? unless there be a difference in the fact that Mr. Decker — I don't know which — a Republican or Democrat, but at any rate not a Socialist — but the Constitution was then clearly understood and this report is signed by awfully good authoritative names — Louis M. Martin, Walter S. McNab, Harley G. Green, Wallace F. Pierce, William H. O'Hara. That was done only two years ago, gentlemen, in this Assembly, on exactly the question before you. You dismissed it by unanimous vote — 144 — not a single vote against. If there can be a more analogous case to the one at the bar I should like to see it, gentlemen.. This, then, is the law. These are the precedents and in the face of all that; in the face of the mandatory provision of the Constitution; in the face of every precedent known to law; in the face of your own unanimous action and the precedents set by you, you are asked at this late hour to come and to invent new qualifications and make them a test of the admissibility of members duly elected. You come before us with charges that these men are members of a political party that has been disloyal to this country, that represents principles inimical to the best interests of this country.

Do you gentlemen realize what issues you are raising? We are here as representatives of a party whose platform in the last half a century has been radically different from the platform of other members of this House. The Socialist party has always maintained and maintains now that it alone represents the true

interests of the vast majority of the people of this country — the workers of hand and brain; the workers in factory and on farm. It has been our contention right along that the old parties who stand for the perpetuation of the present economic system which enslaves the many for the profit of the few are disloyal, are acting inimically to the best interests of the best body of the people of the United States. You come back to us and you tell us you represent the true interests; you represent true loyalty; that our conception of what is the actual interest of the people; our conception of loyalty constitutes treason — and who, pray, constituted you the judges as to what policy advocated, what economic industrial policy advocated by one party constitutes or does not constitute treason?

It is history. It is history alone which will render its final verdict upon you and upon us, and in the meanwhile we have for over 130 years been united upon the proposition that it is not given to any man; that it is not given to any body of men to decree in a free country, in a democratic country that those are eternal and immutable doctrines of policy, of politics, of social philosophy, which alone we shall recognize.

The very foundation of our government is based upon the assumption that the people as a whole, not you gentlemen, not you 145 members of this body, but the people of the whole State, the people of the whole country eventually are to determine what is for their interests and what not for their interest; what they will tolerate as loyal conduct and what they will not tolerate, and that the people will express their views, their desires, by proper constitutional methods; that they will meet in groups united by the same ideas, by the same social concepts and will elect representatives; that they will allow other groups to do likewise and that in the clash of the conflicting opinions and views and ideas and strivings, the vast body of the people, the majority of the people will find expression; that what is considered treason to-day may become the law of the land to-morrow; that just as the abolitionists in the early days who were attacked by eminent respectable gentlemen in terms in comparison with which your declarations are mere compliments, that they in the long run had the support of the people of this country and became the majority.

What, I ask you, is left of representative government; what is left of democratic institutions if you will allow a majority in any sovereign house elected by the whole body of the people to ask

judgment upon the views, upon the policies of their fellow members? Can't you see where that would lead you? If the Socialist members of the Assembly are today expelled or excluded for the sole reason that their platform, their party, are not to your taste, gentlemen of the Republican and Democratic parties, what warrant is there that the same contention won't be made, perhaps, next year, perhaps three years from now, against the Democratic party. It seems to you impossible. It seems to you absurd. Why, this proceeding seemed impossible and absurd to us only two weeks ago, and it has happened. You set the precedent once, you sweep away the constitutional limitations and guarantees, you substitute the arbitrary opinions or arbitrary views of the majority for your law, for your constitution, for your popular will, and you have a situation of chaos and civil war instead of having a well regulated democracy. Gentlemen, it has happened in this state very often that either house of the legislature was either Republican or Democratic by a very narrow margin. Perhaps a few men decide it. Look at the temptation to have the minority come together one particular day when the majority happens to be absent having dinner or playing poker, and that minority then finding itself the majority for one single day, using its power to exclude a sufficient number of the majority party to perpetuate itself in power. Why not? Qualifications? If there is absolutely no rule for the qualifications required you will find ample qualifications or lack of qualifications in your own minds to justify such action. Gentlemen, I want to close with our position made perfectly clear to you. I am not pleading for the five Assemblymen, their office, their jobs. They don't care for them to such an extent. We don't. They are entitled to their offices. They want to perform the duties for which large constituencies have elected them. But, compared with the vital importance of the case itself, their fate, their office, their services are as nothing.

I don't even plead in behalf of the Socialist party. Gentlemen, the Socialist party is not on trial before you, no matter how much you endeavor to make it a trial of the Socialist party. The Socialist party, the Socialist movement cannot be tried, cannot be found guilty, cannot be outlawed, cannot be suppressed. There never yet has been a power, a physical power anywhere in the world that was adequate to suppress the onward surge of a great popular movement, or to stamp out or to qualify social idea and ideals. This proceeding may be delightful and novel to you. It

isn't new to us. It has been tried before. Gentlemen, in the balmy days of the Czar, before the Duma was instituted, the policy of the government was to outlaw and to destroy the Socialist movement. You know who has been outlawed and destroyed in Russia and who has been triumphant in Russia. It is the Romanoffs, it is the Czar, it is all the instruments of oppression that have been destroyed. It is the popular movement of Socialism that has triumphed.

Bismark has attempted to outlaw Socialism. He has passed or had passed legislation to that effect. He declared the party as outlawed from the political community of Germany. To-day the Kaiser who represented the powers behind Bismark is what you would not want to be, and as far as Germany is concerned the only question there is which of the two dominant Socialist parties shall remain in control.

Gentlemen, we are not afraid of suppression, at the time one-half of the world is under Socialist control — to-day; at a time when the Socialist movement, to-day, has matured probably the only possible social organization under present conditions throughout the greater part of Europe — at that time it is altogether too late for any body of men on this side of the ocean to determine to do their little stunt to kill Socialism in this country. You can no more kill the Socialist movement in the United States than you can kill social progress, the development of industry, the development and growth of civilization generally. Gentlemen, that is not the point. As a party we are not afraid of your action, but as citizens, as members of a democratic community we have our word of solemn warning to address to you. We say to you, gentlemen, we are living in an unusual time. Five years of war, of suffering, of destruction, have unmade the world, have ripped up all social institutions, all organizations, have created a new condition, a condition which is largely in the making. Our generation has to meet the greatest problem that ever confronted the world. Out of the ruins of the old world, out of the chaos created by the last few years, it devolves upon us, upon the men and women of our generation to build up a new, livable world. We Socialists are ready to contribute our share. We claim to be, we always have been the most potent factor making for orderly, quiet, peaceful social changes. We do not attempt to usher in a new system by violence. We know it is just as much folly to attempt to bring in radical reforms by violence as it is folly to try to stem reform by violence. We know it perfectly well.

And what we say to you, gentlemen, the contemplated action of this Assembly if consummated will be the first tragic act of violence instead of law. Violence perpetrated by the very men claiming to uphold law. It will loosen the violent revolution which we Socialists have always endeavored and are endeavoring to stem. We say to you gentlemen you have no warrant in law, no warrant in the constitution. No warrant, no precedent, no warrant in the spirit of the institutions of this country to proceed to expel these five men elected by the people, and having the same right on the floor as you and each and every one of you. As your fellow citizens, we say, gentlemen, take care as to what you are doing.

Mr. Littleton.— Mr. Chairman.

The Chairman.— Mr. Littleton. Any persons desiring to leave the room will do so before Mr. Littleton commences his argument. I insist on absolute order in this room during the progress of the debate. Proceed, Mr. Littleton.

Mr. Littleton.— Mr. Chairman, and gentlemen of the Committee. The misconceptions of this proceeding have ranged from the bewildered utterances of the bar association representatives down to the last threat of the counsel for the assemblymen. At first you had been admonished, lectured, assailed, questioned, accused and threatened. The representatives of the bar association filed an elaborate brief and could not restrain their utterances to the limited and printed page, but were obliged to say that they verbally recommended that this Committee should report back to the Assembly and disavow its authority to act as an agency of that great representative body.

For days, Mr. Chairman, emanating from associations honorable to the last degree, and represented by distinguished men, we have heard it said and handed from lip to lip, and passed from newspaper to newspaper, that the assemblymen were expelled or excluded, or eliminated without a hearing, without charges, without a trial and without any of those accompanying things which attend upon the determination of the rights of individuals.

We have heard to-day, and before to-day, that this is an attack upon representative government. That this is an attempt to destroy the right of minority parties to representation in the deliberative assemblies of this country, and that, therefore, it will operate as an absolute destrion of representative government.

We have learned that from the distinguished bar association of the state, if we did not learn it anywhere else.

We are now told by counsel representing the Assemblymen under investigation that this Assembly is without power, first, to designate this Committee and refer to it the questions which have been referred. Second, that upon the report of this Committee the Assembly would be without power to deal with the five Assemblymen in accordance with the facts and demands which those facts should put upon that Assembly. In one breath we are skillfully told that this is a trial by jury in which counsel for the Assemblymen have the right to challenge the members of the jury and by that shrewd attempt it is in the public minds attempted to be made a sort of claim that they will get an unfair trial. Having made that challenge contrary to all of the precedents in deliberative bodies, and contrary to every standard which has been adopted in investigations of this sort and in defiance of all traditions of American assemblies, having made that challenge, they then individually challenge members of the Committee because they have expressed their opinion upon general subjects to be submitted in the inquiry, with no challenge of personal bias and personal prejudice. That is all done for the purpose of making it seem that this is an unfair tribunal. That is all done for the purpose of shrewdly putting in the public mind the idea that they are going into a packed court. That is all done for the purpose of sending it out to the world that this Assembly and this Committee of the Assembly does not intend to conduct an open, fair investigation. That was done shrewdly and cleverly and with a softness of speech.

Now then the next challenge is a challenge to the right of the Assembly, first, to judge of the qualifications of its members' age, the statutory qualifications named, and second to challenge the right of the Assembly to expel its members unless the expulsion rests upon some act done by the member in the Assembly, and after his election. Of course, counsel on the other side has represented in support of these things the best hair-splitting contentions he can offer, but he uses them for the purpose of delivering the last half of his speech which is a warning to the country and a threat to the Committee, and an admonishment to the Assembly that they do not dare deal with the gentlemen he represents unless they wish to invite revolution to this country. That is the challenge that fell from his lips when he concluded his remarks.

Now, Mr. Chairman, upon the contentions which he makes with reference to the right of this tribunal to hear and report to the Assembly, let me draw your attention to something that is incontestable.

The charge is made here that these Assemblymen were pledged to their organization by their constitution to the obedience to the dues-paying members of their organizations, who were or who might be aliens or minors, to do in this Assembly Chamber, when they got here, not what the constitutional oath laid upon their consciences and commanded them to do, but to do as they were bid to do and commanded to do by the very agencies with whom they entered into a secret agreement to give their loyalty to and not to the State of New York nor to the Constitution of the country.

The charge is made, Mr. Chairman, that these Assemblymen, instead of taking the oath of office as it was prescribed in the Constitution of the State and as it was commanded by the Constitution of the United States that it should be prescribed in the Constitution of these States — I say instead of taking that oath, with the obligation to serve the State and to support the Constitution of the State and of the nation, the charge is made here that while they took that oath with their lips, they take their obligation, with their fortunes and their sacred honor, to the secret agencies whom they came here to serve; and that when they took that oath, they intended not the service of the State, they intended not the support of the Constitution of the State or of the United States, but they took the oath here with their lips, and back behind with the agencies who sent them here, that they would do what those agencies demanded; and that they took that obligation, as we shall show, in writing, to their masters behind.

Now, says counsel, we have no right to test the qualifications of men coming here and obligating themselves as members of this Assembly, under those circumstances. Why, Mr. Chairman, do you not recall that it is as old as the hills that a man who makes a promise while yet he is a candidate for office, be that office executive, administrative or legislative, that he will do something in that office after he gets into it, in the shape of keeping a promise or pledge he has made, which is inimicable to the proper administration of the duties of that office, has made a promise which subjects him to removal, in either event, whenever that question arises. He has offended against the very term which he seeks; he

has despoiled the very office before he steps over its threshold; he has stripped himself of the honor and the capacity to keep the obligations of that office before he ever enters upon it, if he gives a pledge that he will do things in obedience to those that are behind him, as against his obligation to obey the constitution of his State and of his Nation.

The counsel has said, he argues in one moment that the Assembly is without authority under this constitutional provision to judge of the election returns and qualifications of its members on the mere question of whether they were of proper age and whether they were of certain residence and whether they were within the technical qualifications prescribed by law. May it not be; may it not be that because such a contention as that could be raised, may it not be that because such a claim as that might be made that the Legislature of the State passed the second section or third section of the Legislative Law, which is as follows: "Each House has the power to expel any of its members after the report of a Committee to inquire into the charges against him shall have been made." I repeat that Mr. Chairman, not so much for your immediate benefit, but because this declamation has been made in such a wide and numerous assemblage — "Each House has the power to expel any of its members after the report of a Committee to inquire into the charges against him shall have been made."

We are told at the outset of this that these are not charges. I think Mr. Hillquit in his first presentation of his first motion this morning took particular pains to call the attention of the Committee and of the Assembly present that these charges were specific that had been submitted by the Speaker. I think he took particular pains to read you specifically what these charges were. Now then, these charges as he so denominates them having been submitted by the Assembly through the Speaker, a Committee is appointed, authorized to hear and determine, to send for witnesses and to make a report to the Assembly, to the end that the Assembly upon that report and upon all the evidence taken may make such disposition of the members in question as to them shall seem wise and just.

Is there any doubt, Mr. Chairman, that your Committee under the submission of the resolutions which were offered by the Speaker at the time the challenge of these members was made, is there any doubt that your Committee can inquire, either under the provisions of the Constitution with reference to the qualification of

members, or upon the third provision of the Legislative Law, which gives the Assembly the power to expel after a report of a Committee? Be there any doubt upon that subject in the mind of anyone interested not in splitting hairs on the question? Is there any doubt in the mind of any member of the Assembly that you have the power to expel members? Oh, but says counsel, you cannot do that unless it is something they do while members of this body. I repeat, that if the person who comes to take his oath here or even takes his oath, has given a pledge before he came here that he with others not disclosed; he with others not revealed; he with others not within sight or sound of the public agencies of the State would engage in a program of violence against the country, against the Constitution of his State and against the Constitution of his nation, if he stands pledged to that sort of program and comes to take the oath of office, his pledge so taken prior to the coming here, his agreement not to keep his oath of office, his agreement to destroy the country whose Constitution he has taken the oath to support, his agreement to attack the country which he pretends to represent, his agreement to destroy the government which he pledges himself to maintain, his agreement to maintain law and order when secretly plotting with other men to project disorder, his agreement to do all that is the most colossal offense against his future service in that body and empowers that body to rid itself of that contagion, if contagion it be.

Now, I submit, Mr. Chairman, therefore, that the Committee acting under the resolutions offered by the Speaker specifically directing the attention of the Assembly to the matters contained in those resolutions affecting the character of the members here under investigation, I submit that the appointment of this Committee enables this Committee to proceed under the clause of the Constitution empowering the Assembly to judge of the qualifications of its members and to proceed also upon the third provision of the Legislative Law of the State which enables each House upon a report of a Committee to expel any member.

Counsel has cited innumerable examples here. Those that didn't suit him he said were bad precedents. Those that did he said were good. If it be the case of Roberts, it didn't suit him; if it be the case of Berger, it was distinctly distasteful, but if it happened to be some other case which squinted at the ideas he desired to convey to the Committee, it was highly acceptable and brilliant authority.

Now, if the Chairman please, in the case of Roberts in just a word, to show how much of effort has been made to give to this hearing the semblance of a partial or a biased hearing, instead of meeting the offer of the Chairman squarely upon the question it has been said here that this Committee was packed by the Speaker, so to speak, after he had offered the resolution, and it has been said because he has the power of appointment of this Committee that that enabled him to appoint a Committee which would respond favorably to the resolutions which he himself had offered. In the first place, they didn't take the trouble to look up, as they sometimes do not, that this Committee continued over from last year except that two on the Republican side and two on the Democratic side that had been nominated this year. That didn't make any difference, that little omission; the charge went, just the same.

Now, in the Roberts case, they met in front of the bar of the House of Representatives as the members are sworn in, which is the practice in the House of Representatives, and when they arrived at that time and place, Mr. Taylor of Ohio called attention to the fact and to the circumstances of disqualification which were urged against Roberts, to-wit, to the fact that at that time he was a polygamist. Upon that fact being called to the attention of the Speaker, Roberts was directed to stand to one side. He was excluded from the taking of the oath of office upon the mere suggestion of a member of the House that Roberts had been guilty of polygamy or was a practitioner of polygamy. He never was permitted even to take his oath because there in the presence of the House and at the bar of the House it having become known to the Speaker upon the responsibility of a member, the Speaker said to him, "You stand to one side," and he stood to one side, and he never occupied the seat to which it was claimed he was elected. He never sat in the seat to which it was claimed he was entitled, but what happened, Mr. Chairman? A Committee was appointed to investigate Roberts, and the charge made that he shouldn't be suffered to enter upon his duties in the House and take the oath of office, and Representative Taylor, who had made the original challenge, Representative Taylor, who had brought to the attention of the Speaker the fact that Roberts was disqualified because he was a polygamist in the defiance of the nation's traditions and standards of this country, Representative Taylor was made Chairman of the Committee. The Committee retired with

its other members and there proceeded to inquire into the facts. That Committee reported back to the House. That House debated at great length and finally that House adopted the report and Roberts, who had come there with his record of polygamy back of him, with his defiance of the standards of the country to which he pledged himself a patriotic citizen; Roberts, who had come there with the command of the electorate that they didn't care whether he was a polygamist or not; Roberts, who might be said to be acting as an emissary of government; Roberts was never permitted to sit in a seat in the House of Representatives, and those were the general precedents established at that time in the Roberts case.

Now, then, I say, in this particular case here, the Assemblymen do not take their oaths of office before the bar of the House. The challenge with reference to any man's ability, the capacity to take the oath, might well be made here, and would be made here, no doubt, by any member desiring to raise that challenge as it was made in the House of Representatives. But it so happens that they may take their oaths of office before the Secretary of State, that they do take their oath before the Secretary of State.

So that when members appear here upon the floor of this House they do not appear for the purpose of taking the initiative oath which the members of this House of Representatives have to take and do take at the rail of the House. Therefore, the challenge could only be made, if any man were going to make the challenge, as it was made in this particular case, by the Speaker or by some member of the Assembly rising in his place and presenting an outline, an indefinite outline, of the charges that were made against these members. And if, Mr. Chairman, the Assembly possesses the power to expel, how ideal, how faint, how vapoing, how foolish, is the argument that they do not have the power to suspend — which is inside of the power to expel!

Who, as a lawyer, or publicist, or statesman, or writer or debater, would for one moment challenge the proposition that the power to expel includes the power to suspend? No such challenge as this has ever been made until this raging tempest broke out in this small teapot upon this particular action of the Assembly.

Why, gentlemen, in the older days of this country, whenever a challenge was made of a member's right to sit in the Senate or the House, fortunately for the standards of the country, so conscious and sensitive was the honor of the member to all of the public sentiment involved, so responsive was he to the amenities

of the situation, that, without a suggestion from anybody, he left the House and he would not again darken its doors until the investigation had been completed and he was invited to come upon the floor, either to meet the challenge that was made by the Committee that reported or the vindication that came to him after the Committee's investigation. And never until we reached these particular times, in which men take their oath outside of the chamber and come in and insist upon occupying their chairs — never mind the fact that their right to sit is under challenge, never mind the fact that their qualifications are questioned, never mind the fact that the question of their expulsion is up — they still insist that they may sit.

Now, the Assembly, if it possesses the power to expel, of course, possesses the power to suspend. And that is the only thing that has been urged after all of the urgings and criticisms against the Assembly, was because pending this hearing and investigation, pending the determination of the questions submitted to this Committee, it suspended the members during that period. That is the only challenge that was made. Now let me show you, Mr. Chairman, since counsel upon the other side has taken the liberty of reading some from the authorities, let me draw your attention to an ancient and an honorable case, a case in which I do not claim a parallel of all the facts to run deadily with each other, but a case in which the dominant principles alike suggest this case and the one which I shall read. It is within our memory, within our recollections of history, of that extraordinary episode in American life when Aaron Burr was charged with treason in conspiracy with others and was put upon trial, and finally a verdict that the charge had not been proven was returned. It is not generally remembered by those even familiar with history that charge in the indictment was a man by the name of John Smith who was a United States Senator from Ohio and then serving. After the acquittal of Mr. Burr the indictment against Senator John Smith was dismissed. He was still a Senator. Senator Thursdton, I think his name was, proposed in the Senate in a very short resolution that the Senate should take up the question notwithstanding the fact that by the due process of the law of the land Senator Smith had been acquitted. And that is another thing that has crept in this case and been urged here and there by even so distinguished a judge as Judge Hughes, that if you have anything against a member of Assembly which is crim-

inal, go to the courts and convict him and then bring your conviction in and offer it in evidence; that that is the only way that deliberative bodies can purge themselves of influences which may be incompatible with the high privileges of that body or inimical to the welfare of the country as the case has been stated. A resolution was offered. I believe it was Mr. McClay who offered the following resolution — that a committee be appointed to inquire and report to the Senate their opinion whether John Smith, a Senator from the State of Ohio, should not be expelled from the Senate. Of course he was then a member and they were acting under the expulsion provision of the Constitution upon that resolution, which contains only two or three lines more. The committee was appointed, and that was a distinguished committee. It may not be amiss to name the committee that was appointed to inquire into it. The following named senators were appointed as a committee: John Quincy Adams of Massachusetts, Samuel McClay of Pennsylvania, Jesse Franklin of North Carolina, Samuel Smith of Maryland, John Pope and Buckner Thirsdon of Connecticut and John Anderson of Tennessee. Now, mark you, that at that moment Smith was free of the charge, even by indictment that he had entered into a conspiracy to do what — to overthrow the government of the United States and to bring about the disunion of the States. Nevertheless, it was thought perfectly proper and consistent with the high standards of that great body that they should inquire whether their fellow member, according to their standards, had been guilty of the conduct charged against him to such an extent and to such a degree as to render his service there incompatible with the high privileges of that body. And so they proceeded. Now mark you the differences. Immediately and automatically Senator Smith left the floor of the Senate. Not only that, Mr. Chairman, and these are ancient and august precedents, these are from one who lived within sight of the camp fires that were set by our fathers upon these shores to establish a free constitutional government, these were men who presided at the birth of a new republic, these were from men jealous of their power that each had, jealous of their liberty that each enjoyed, jealous of its future, proud of its past and committed to the glory of that republic if in their hands they could sustain and maintain it. These are precedents I say which are worthy of the homage of succeeding legislative bodies. Who was John Quincy Adams? Why not ask who was Thomas Jefferson, who George Washington,

and yet he was the chairman of the committee. What happened in that case. Senator John Smith left the floor of the Senate. Fortunately, they didn't have to say to him, you leave the floor of the Senate. Senator John Smith knew enough to know that if he was challenged upon his loyalty to the country in whose federal councils he was sitting that he ought to banish himself from its walls and wait until that issue was determined. He did retire. Not only that, Mr. Chairman, but the committee went out to make the inquiry. The committee learned that Senator John Smith wished to come before the committee. It did not dare let him come before the committee until Mr. Adams went upon the floor of the Senate and offered a resolution asking for the power to invite or permit Senator Smith to come before the Committee of Inquiry, which was immediately granted, and an order signed by Vice-President Clinton directing that he could go before the investigating committee, and he did. Now, I call attention to that, introducing what were the standards then in reference to the high office of United States Senator. I desire to draw your attention also to the report of the committee, which was undoubtedly the work of Mr. Adams.

He said in examining the question whether these forms are judicial proceedings or rules of judicial evidence ought to be applied in the exercise of that censorial authority which the United States Senate possesses over the conduct of its members. Let us assume as to the test of their application, either the dictates of unfettered reason, the letter and spirit of the Constitution or precedents, domestic or foreign, and your Committee believe that the result will be the same, that the power of expelling a member must in its nature be discretionary, and in its exercise always held summary than the party processes of judicial tribunal. Every appeal that has been made in a Bar Association and in the press of the state has been unmindful of this law and of this rule.

The power of deliberative body has not been considered. We have been told that we must have charges preferred, specifications, and a chance to answer the charges that are made. That only applies, Mr. Chairman, and gentlemen of the Committee, to that vast body of officers as to whose removal the law directs they shall not be removed unless upon charges, and after a hearing, but in a legislative body when you undertake to deal with fellows, you have no tribunal except the conditions which were the agencies

of the House or Assembly. You prefer no charges, except the charges which direct the attention of the member to the general facts as to which the investigation is to be conducted. You make your report to your fellow-members. Now, here is what Mr. Adams said with reference to the balance of it, the power of expelling a member for misconduct results, on the principles of common sense, from the interest of the nation, that the high trust of legislation should be invested in pure hands. When the trust is elected it is not to be presumed that the constituent party will commit the deposit to the keeping of worthless characters. But when a man, whom his fellow citizens have honored with their confidence, on the pledge of a spotless reputation, has degraded himself by the commission of infamous crimes, which become suddenly and unexpectedly revealed to the world, defective indeed would be that institution which should be impotent to discard from its bosom the contagion of such a member; which should have no remedy of amputation to apply until the poison had reached the heart.

But when a man, a fellow member not only represents the majority that elected him, he stands pledged to represent the district in which is included the minority, and the representative of the minority is just as compelling and just as obligatory upon him as that oath of office imposes that obligation upon him, as strongly as he shall represent any other person in the district.

The challenge here made is against another investigation and lies to the interest of minority, pledged themselves to the majority and to the organization or to the group that elected them to do absolutely the bidding of that majority while here, and to abdicate their position at the command of that majority, and to turn over to them the means wherewith that abdication could be accomplished.

Now then, see what was revealed and what is revealed with reference as to these members as to hold this investigation is about to proceed, but when a man, whose fellow citizens have honored with their confidence on the pledge of a spotless reputation has degraded himself by the commission of infamous crimes, which become suddenly and unexpectedly revealed to the world, defective indeed — and in the assembly district where members come from it has been revealed of the secret arrangement as to their resignation and as to their obligation to resign and obey the demands of the dues paying members of that organization. I do believe

those members of the district knew that they are revealed, and here let me say with reference to the threat made by counsel for the Assemblymen — here let me say in reference to this charge that Socialism has been going on all these years and will continue — here let me say in reference to this admonition to take care by this Committee that until the fierce fires of this war broke out and shed their lights in the dark corners of all the so-called political organizations did we discover that treason might be masquerading under the name of a political party. Never until these fierce lights broke out did we know or understand what these particular gentlemen might or might not stand for.

I say this, Mr. Chairman, because the argument that has been brought here this afternoon by Mr. Hillquit has been an argument, first, that he could not obtain a fairness before the Assembly and the Committee; second, a defiance and a threat to the Committee to take care how they dared to act upon this question.

Says Mr. Adams, in continuing this report:

“ But when a man, whom his fellow-citizens have honored with their confidence on the pledge of a spotless reputation, has degraded himself by the commission of infamous crimes, which become suddenly and unexpectedly revealed to the world, defective indeed would be that institution which should be impotent to discard from its bosom the contagion of such a member; which should have no remedy of amputation to apply until the poison had reached the heart. The question upon the trial of a criminal cause, before the courts of common law, is not between guilt and innocence, but between guilt and the possibility of innocence. If a doubt can possibly be raised, either by the ingenuity of the party or of his counsel, or by the operation of general rules in their unforeseen application to particular cases that doubt must be decisive for acquittal, and the verdict of not guilty, perhaps, in nine cases out of ten, means no more than the guilt of the party has not been demonstrated in the precise, specific and narrow forms prescribed by law. The humane spirit of the laws multiplies the barriers for the protection of innocence, and freely admits that those barriers may be abused for the shelter of guilt. It avows a strong partiality favorable to the person upon trial, and acknowledged the preference that ten guilty should escape rather than that one innocent should suffer. The interest of the public that a particular crime should be punished is but as one to ten, compared with the

interest of the party that innocence should be spared. Acquittal only restores the party to the common rights of every other citizen; it restores him to no public trust; it invests him with no public confidence; it substitutes the sentence of mercy for the doom of justice; and in the eyes of impartial reason, in the great majority of cases, must be considered rather as a pardon than a justification. But when a member of a legislative body lies under the imputation of aggravated offenses and the determination upon his cause can only operate to remove him from a station of extensive powers and important trust, this disproportion between the interest of the public and the interest of the individual disappears; if any disproportion exist, it is of an opposite kind. It is not better that ten traitors should be members of this Senate than that one innocent man should suffer expulsion. In either, no doubt, the evil would be great. But, in the former, it would strike at the vitals of the nation; in the latter it might, though deeply to be lamented, only be the calamity of an individual."

I have recited that for the purpose of showing, Mr. Chairman, that all of the contentions, from the contention of Justice Hughes made before the Bar Association — that we must try men who are to be investigated for the purpose of expulsion, before courts, that they must have been guilty of some crime — the earliest, the strongest and the best precedents of the country, are against it. And that was only following the case of Senator Blood, who was the first Senator of the United States ever expelled, in the year 1797.

I have said that much, Mr. Chairman and gentlemen of the Committee, upon the contentions made by the counsel here. Let me remind you of one other thing; that is, that the test which he read from the constitutional oath of office, and that he was construing in some tortuous fashion as a prohibition against the power of the Legislature or the Assembly to exclude or expel or to get rid of any person who might have taken his oath of office contrary to his previous pledges to destroy the country, which his oath obliged him to support — he reads that part of the provision which says:

"I have not made any promise in respect to the giving or withholding of any such vote; and no other oath, declaration or test shall be required as a qualification for any office of public trust."

In other words, counsel seems to apply this solely to the Assemblymen or to the member who is taking this oath. This applies to every officer who takes the oath of office prescribed by the Constitution. There is not other qualification or test. Of course, the test oath to which this reference is made has reference to that long traditional dispute regarding the taking of oaths involving religious contests, and had no other reference to anything else; but it in no wise affects the power of removal of an officer. If it did, every officer taking the oath of office in this State, whether an Assemblyman or a Senator or holding any office, either before or after taking it, it could be said that you would be adding a qualification to it. For a judge or other executive officer, or others holding an office of public trust in this State, when challenged with removal, it might be answered by saying, "I took the oath of office; I was elected; you can't apply any other test or oath to me; you can't add any other qualification to me; it makes no difference what I did before I came in with reference to what I did after I got in." That is the point.

I say, Mr. Chairman, that it utterly excludes the contention, which at best was a hair-splitting contention of counsel.

I submit, therefore, that the motion made by the counsel in reference to the resubmission of this to the Assembly and the dismissal of the whole matter on the ground that this body is without jurisdiction, and that the Assembly is without justification, that that motion should be denied.

Attorney-General Newton.— Mr. Chairman, I suggest that we have a ten-minute recess at this time, and that in the meantime we get a little fresh air in the Chamber.

Chairman Martin.— They wish to take a flashlight of this court.

Mr. Hillquit.— I think this court can stand the light of a flashlight.

Chairman Martin.— Well, if Mr. Hillquit feels that way, lets have it.

Attorney-General Newton.— I am sure this side can.

Chairman Martin.— Ten minutes recess is declared. It will be taken as soon as we open up.

AFTER RECESS: 4:30 P. M.

The Chairman.— Now, is there a reply to be made on the part of the counsel for the Assemblymen? Possibly we will hear one of the other counsel on the other side?

Mr. Hillquit.— In very brief words, Mr. Chairman.

The Chairman.— Mr. Hillquit.

Mr. Hillquit.— My good friend and brother, Littleton, has proved as eloquent as he used to be in the olden days when I had the pleasure of meeting him, but I think he has rather confused four different propositions, arguing all of them together.

In these preliminary motions we have four distinct phases, as I see it. At first we objected to the Committee, challenging its competence to sit in this case. This has been passed upon by the Committee and is no longer debatable, although Mr. Littleton again referred to it. Then on the other preliminary motions there were three distinct phases, the question of the constitutional powers of this Committee and of the Assembly. That is one, and the only one I argued. The second is the question of the legality of the suspension of the five Assemblymen pending the charges. That we have not touched upon yet on our side, and expect to do so shortly. And finally, there is a question whether or not the charges as formulated are sufficient to constitute a cause or possible cause of exclusion of these Assemblymen even though they were proven to be true. That likewise has not been argued yet on our part. The only point I have raised in my last argument and the point which, I am sorry to say, Mr. Littleton has not met, was the following: I claim this Assembly as every legislative body, has two distinct methods of ridding itself of members under certain circumstances. One is by excluding a member for either lack of constitutional qualifications, or for some fault connected with his election to his seat. In other words, the question of his election, returns and constitutional qualifications.

This comes to the very right of the member to claim and to get a seat in the Assembly. My contention was that if a member presents himself with credentials regular and complete on their face, complies with all constitutional requirements and there is no dispute about the selection, he is entitled to his seat. Subsequently, however, he may be expelled from the Assembly on an entirely different proposition, not on the question of his qualifications, not on the question of his election, not on the question of

returns, but upon the question of his conduct as a member of the Assembly for misconduct in office which arises subsequently and which at any rate must have been committed while he was a member of the Assembly and had been duly seated. He may be expelled in the Houses of Congress by a two-thirds vote, in this Assembly by an ordinary majority. Now, I think it is about time that this Committee and all of us get clear on this subject under what provisions is the Assembly proceeding against these five Assemblymen, and is it sought to exclude them under the constitutional provision which makes the Assembly the judge of the election, returns and qualifications, or if they have been seated and are they members of the Assembly and are charges now being preferred against them under section 3 of the Legislative Law? If it is the latter, as Mr. Littleton seemed to intimate, that is, if they are full fledged members of the Assembly under charges of misconduct, that misconduct must bear some relation to the performance of their official duties in the Assembly.

There isn't a case anywhere, I contend, that holds different and I again respectfully refer to the Decker case, in which the doctrine was reported by this Assembly only two years ago that expulsion will not lie except for an act of misconduct in connection with the exercise of office. Since Mr. Littleton has opened the chance I should be very glad to have this Committee determine whether it is proceeding under the Constitutional provision or under the provision of the Legislative Law; whether in other words, it is claimed that the Assemblymen in question do not possess the requisite qualifications, or, at any rate, qualifications upon which this Assembly considers itself competent to pass, or whether this is a proceeding to expel them; in which case they may be expelled after specific charges, and after the charges have been inquired into and after they have been found guilty under such charges. Now I maintain that from the very outset this was a proceeding not under the Legislative Law but under the Constitution; that the question before it is not of misconduct on the part of these five Assemblymen but of qualifications. And in connection with that, my contention was that such qualifications can only be constitutional qualifications, and that this Assembly has no power to add to such qualifications. This contention has not been answered by Mr. Littleton. I refer to the provision of the Constitution which specifically ordains that no other oath, declaration or test shall be required as a qualification for any office of public

trust. I must confess I could not quite get Mr. Littleton's point in meeting that proposition. He said something about that not referring to an Assemblyman alone. It does not refer to Assemblymen only. It refers to all elected officials in the State of New York, all officials who hold their mandate from the people, but at the very outset the Constitution provides that members of the Legislature and all officers, executive and judicial, should take a certain oath. Now, then, it very clearly includes members of the Legislature. Whether it also includes other officials or not is absolutely irrelevant to the consideration of the point raised by us. It does apply to members of the Legislature. Members of the Legislature are required to subscribe to the constitutional oath and to the oath under the corrupt practices act and no further test as to their qualification can be required. That answers our purpose and that entirely covers our case.

Mr. Littleton also referred to some very ancient precedents in which, when charges were preferred against certain Senators, they had the good grace of getting out and walking out themselves. That was very courteous and very chivalrous, and perhaps quite in place a hundred years ago, but let us not try at this time to introduce any such high standards, because nowadays in our legislative assemblies charges of one member against the other are so frequent that it would not survive more than one day. Every day that a charge was made against an Assemblyman they would walk out and your Assembly would become empty.

We, as duly elected members of the Assembly, have the right to speak in the Assembly, to sit in the Assembly, to vote on all measures, including those which concern ourselves, and we are deprived when we are not told generally as a matter of honor. I would suggest that you retire because reflections have been made against you, but when the Sergeant-at-Arms is called and is told "Conduct these five men out of the Assembly," that is entirely a different proposition from the ancient senatorial courtesy and to such proceeding we are here to object.

Now, I really do not see that there was any other point brought up by Mr. Littleton in reply to the argument I made that requires further answer, except for the implication, rhetorically I suppose, that I had made, or intended to make, threats against this Assembly or against the people generally. Of course, nothing was further from me or my intentions, that of making threats. On the contrary, I made a sort of a love offer. I said, as far as we Socialists are concerned, we are ready, willing and eager to

see the thing through in a constitutional manner and by peaceful methods. I was merely imploring you to be as good and peace-loving as we Socialists are, and not to be high-minded in your procedure. That was an entreaty, and it was intended to be. Upon this I shall ask the Committee to rule on my motion.

Mr. Stanchfield.—Mr. Chairman, before this discussion is closed I desire to address the attention of the Committee to two considerations. I am quite well aware that the Chair has already ruled adversely to Mr. Hillquit's challenge as to the qualifications of certain individual members of this Committee. However, it is quite appropriate that it should appear upon the record, and that the members of this Committee whose integrity of action has been attacked should know, that during the impeachment trial of Governor Sulzer the facts developed were these: A committee of which Senator Frawley was the Chairman had made an exhaustive investigation into the facts upon which the impeachment of Governor Sulzer was predicated, and it was upon the report of the Committee of which Senator Frawley was the Chairman that the impeachment followed, so that Senator Frawley and the members of the Committee behind him had in the making of that report to an extent committed themselves to the proposition that the facts which they had elicited warranted the impeachment of the Governor.

Upon the trial Mr. Marshall, one of the Committee of the Bar Association that appeared before you to-day, ex-Judge Herrick, Senator Hinman, Austin Fox, and other counsel for the Governor at the threshold of the trial, in writing, challenged Senator Frawley and each member of his Committee upon the ground that they had prejudged the merits of the case, and were disqualified to sit as judges upon the impeachment trial.

You men will, of course, know that the Court of Impeachment consisted of the Senate of the State of New York and the entire personnel of the Court of Appeals, and after argument was had upon the challenge it was overruled, emphatically overruled, and it was held that Senator Frawley and his Committee were quite competent to sit and quite within their rights. I think that ought to appear upon the record so that anyone who may have any compunctions about his rights to sit or act may know what the law is by the highest court in the State of New York, to wit, the Court of Impeachment. There is no higher tribunal on the entire proposition.

Suppose a man is 21 years of age and is elected by the constituency a member of the Assembly, how is the Assembly, in the event that it finds through some channel that he is disloyal, that he has made statements that render him unfit to sit in this body, how are you to rid yourselves of such a member? The Constitution provides that you are the judges of the qualifications of the member.

The Legislature long years ago supplemented it with article third, to which your attention has been called both by Mr. Hillquit and Mr. Littleton, in which it is provided that the Assembly may expel a member upon the report of a committee into charges that shall have been made against him.

Now, that situation is widely different from the proceedings to remove a judge of the Supreme Court, a judge of a court of record, or a public officer, and the Assembly of the State of New York has the power, unqualified power, to expel any member with or without reason, with or without cause. You are the judges of cause. You may determine what, in your judgment, renders a man unfit to sit in the Assembly, and nobody can question your conduct or your act.

The courts of this state have held time after time that there was no judicial question that could arise to be settled in the tribunals of justice, that the Legislature being a co-ordinate branch of the government, acting within the realm in which it was supreme, its action in the discipline of one of its members could never question their right.

It was not so many years ago that in the Senate of the State of New York, I think during the time when Governor Flower was the Executive, that Senator Saxton, Senator O'Connor and Senator Irwin were, all three of them, suspended by the Senate for a period of three months for recalcitrancy in refusing to vote, in which the Senate exercised that summary arbitrary power to deprive them to act.

So, here, this Assembly in its entirety, acting upon the report of a committee or acting upon its own volition, has the undisputed and undeniable power to suspend or expel a member for anything that measures up to what you would assume to be or assert to be sufficient and adequate cause.

Now, that is a complete answer to every suggestion that has been made here. The power rests with the Assembly. This Judiciary Committee are conducting here not a trial, but an investigation. Mr. Hillquit, Mr. Stedman, Mr. Rowe, Mr. Bloch

and these five men who are under investigation, are here as a matter of courtesy — let us have no misunderstanding about that — purely a matter of courtesy and not of right; and they are here because we wish them to be convinced, as the result of this investigation, that there are facts and that there is evidence that warrants the action of the Assembly of the State of New York. You could proceed arbitrarily. We think it would be unfair and that is the reason that we uphold, in sentiment and in letter and in spirit the statement that the chairman made here that we desire these people to feel that in the progress of this investigation, as to whether or no these men have been guilty of conduct and of acts that warrant their expulsion from this body, they can never say but what they have had a day in court and a fair trial before a jury, so to speak, of their peers.

Now, it being nearly five o'clock, I move that, Mr. Chairman —

Mr. Hillquit. — Before you proceed, may I have a few minutes to reply to you, if you do not object and the chairman does not object?

Mr. Stanchfield. — Go ahead.

Mr. Hillquit. — Mr. Stanchfield addresses the question, what means, if our contention prevails, would this Assembly have to exclude a member who is disloyal and makes statements which render him unfit to be a member of this Assembly.

Our entire contention has been that the Assembly has no such powers; that the Assembly cannot establish tests or criteria by which one of its members may be labelled disloyal. If any person has been convicted of disloyalty by proper process in court, has been convicted of a felony, he is deprived of his rights of citizenship by law, and therefore for lack of citizenship and that constitutional qualification, cannot take his seat here. But any person not convicted of a crime cannot be barred from the Assembly — that is our contention — if properly elected thereto, for utterances, for statements, which some members of the Assembly or the majority of them may choose to label disloyal or which in fact are. Our contention is that that is precisely what the Constitution sought to avoid; the right of a majority to exclude a minority upon their self-imposed test of what to them seems loyalty or fitness.

Mr. Stanchfield further says that the Assembly has the sole and exclusive and unappealable final right to expel any of its

members. If by that he means that if the Assembly does such a thing the courts have no jurisdiction to review such action, he may be right. I am not prepared at this time to admit that in all cases he would be right, but what I wish to call the attention of the Committee to is that this is nothing but a statement of naked power. As well might Mr. Stanchfield say that if ten good husky individuals took hold of one weak chap and kicked him downstairs for no reason in the world, there is no recourse against them because they have the power to do so; there is no question about power. The question is this. This Assembly and every other legislative body always have exercised their power in accordance with the Constitution and Laws of the State and of the land. We assume that in this proceeding it is intended to follow the Constitution and to follow the law strictly. Otherwise, we wouldn't be here; if those gentlemen have the power to exclude you, therefore we do exclude you and all you want to do is to be satisfied and set aside, why you wouldn't be here. We are here upon the assumption that you propose in your actions to be guided by all the provisions of the Constitution and the statute law applicable to the case, and that is always what you have done. There hasn't been a single case in this Assembly which has been disposed of merely on the statement, "We are the judges; we are supreme; this is our will, and that is the end of it."

If that is the case, whether or not the actions of this Assembly are reviewable you are bound by the law and we claim that that law as it exists does not confer any sanction upon your proceeding and that is not answered by the statement or contention that you can do it anyhow. So we are just exactly where we were before on the question of your constitutional rights and it is upon this question that we request your opinion.

Mr. Stanchfield.—Just one word more and I am going to call your attention to it, because it is so pat and conclusive an answer to Mr. Hillquit's contention.

I suppose it will be conceded that Judge Cooley is perhaps the ablest writer in the United States on questions of Constitutional Law. This is what he says, speaking of legislative power:

"Each House has also the sanction to punish members for disorderly behavior and other contempts of its authority as well as to expel a member for any cause which seems to the body to render it unfit that he continue to occupy one of its

seats. This power is generally enumerated in the Constitution among those which the two Houses may exercise, but it need not be specified in that instrument since it would exist whether expressly conferred or not. It is a necessary and incidental power to enable the House to perform its high functions and is necessary to the safety of the State; it is a power of protection."

Mr. Stedman.— May I ask what section that is?

Mr. Stanchfield.— I don't know whether the section is on. I will look and see for you, sir. The section doesn't appear to be here. I now move, Mr. Chairman, that we adjourn until to-morrow morning.

The Chairman.— Is that agreeable?

Mr. Hillquit.— That would mean that the Committee reserves decision upon my motion?

The Chairman.— Until to-morrow morning. I have some notes here and I would like to look them over, if that is agreeable. What time is agreeable to counsel to convene to-morrow morning?

Mr. Stanchfield.— Eleven o'clock.

Mr. Hillquit.— Except for this, gentlemen. If we meet at eleven we meet until one; then we adjourn and convene at two, which gives us very little time for lunch. I wonder if we couldn't meet at half past ten.

Mr. Stanchfield.— As far as counsel on this side are concerned, we haven't any desire to deprive anyone from getting enough to eat. Now, Mr. Chairman, will you announce that all witnesses must return to-morrow morning, before we adjourn?

The Chairman.— The proceeding will be adjourned until to-morrow morning at half past ten sharp. I direct all witnesses subpoenaed by either side to consider themselves bound by the subpoenas and be present here at 10:30 to-morrow morning.

The Committee stands adjourned.

(Whereupon an adjournment was had at five o'clock P. M.)

STATE OF NEW YORK — ASSEMBLY CHAMBER

In the Matter of the Investigation by the Assembly of the State of New York as to the Qualifications of Louis Waldman, August Claessens, Samuel A. deWitt, Samuel Orr and Charles Solomon to Retain Their Seats in Said Body.

THE CAPITOL,
ALBANY, N. Y., January 21, 1920

Present:

Hon. Louis M. Martin,
Hon. George H. Rowe,
Hon. James M. Lown, Jr.,
Hon. Edward A. Everett,
Hon. William W. Pellet,
Hon. Edward J. Wilson,
Hon. Charles M. Harrington,
Hon. Harold E. Blodgett,
Hon. Theodore Stitt,
Hon. Louis A. Cuvillier,
Hon. Maurice Block,
Hon. William S. Evans.

Appearances:

For the Judiciary Committee:

John B. Stanchfield,
Martin W. Littleton,
Elon R. Brown,
Charles D. Newton,
Arthur E. Sutherland,
Samuel A. Berger,
Archibald E. Stevenson,
Harry F. Wolff.

For the Socialists:

Morris Hillquit,
Seymour Stedman,
S. John Block,
William Karlin,
Gilbert E. Roe,
Walter Nelles.

LOUIS M. MARTIN, Chairman.

(The Committee met pursuant to adjournment at 10:45 o'clock A. M.)

The Chairman.—On the motion made by Mr. Hillquit for the Assemblymen, the Chair reads into the record the following decision:

“The motion of Mr. Hillquit that the proceedings before the Committee be dismissed and that the Committee report to the Assembly recommending the immediate dismissal of the proceedings now pending before it on the ground that the proceedings are without warrant in the Constitution or in the statutes in the State of New York and are absolutely illegal and void, is denied, with an exception for Mr. Hillquit.”

Mr. Hillquit.—May I inquire at this time, Mr. Chairman, whether this decision is the unanimous decision of the Committee, or whether there was a dissenting minority?

The Chairman.—It is a decision of the Chair after consultation with the Committee. Proceed.

Mr. Hillquit.—An exception has been granted?

The Chairman.—Yes, without prejudice to any further motions along those lines you desire to make.

Mr. Hillquit.—The next preliminary motion will be made in behalf of the Assemblymen by Mr. Gilbert E. Roe.

The Chairman.—I didn't get the name, please.

Mr. Hillquit.—Mr. Gilbert E. Roe.

Mr. Gilbert E. Roe.—Mr. Chairman and members of the Committee: I have reduced to writing the motion I wish to make and with your permission I will read the motion into the record: In behalf of the excluded Assemblymen, Louis Waldman, August Claessens, Samuel A. deWitt, Samuel Orr, Charles Solomon, we object to the jurisdiction of the Judiciary Committee of the Assembly, and move this Committee forthwith report to said Assembly of the State of New York that the proceedings thereof on the 7th day of January, 1920, by which said Assembly assumed temporarily at least to divest said Assemblymen of their

rights of said Assembly and by which they were forcibly excluded from the floor of said Assembly were and are wholly illegal and void and that by reason of the action of said Assembly this Committee and said Assembly are without jurisdiction to proceed further in this investigation, at least until said excluded Assemblymen are restored to their rights as members of that body.

Our point, sir, in this connection, is this: If the exclusion of the five Assemblymen in question from the floor of the Assembly on the 7th of this month was an illegal act, then they are of course still members of that body and are entitled to speak and vote and function in every particular the same as all other members of that body. They are and have been entitled to take part in all the proceedings that have led up to this investigation. They were entitled and are entitled to take part in any debate that may be had in that body upon the question of rescinding the action taken by the Assembly, upon the question of modifying, or upon any other question that comes before that body. While this proceeding is in form one before a Committee of the Assembly, this Committee is but the hand of the Assembly. The proceeding is a proceeding in the Assembly and the effect of this decision of the Assembly, if it was an unlawful decision, is simply to deprive these men of the opportunity of defense accorded them under the Constitution and the law. It is idle to say that they can come before this Committee in the guise of defendants and testify, and, as counsel upon the other side said, that we are all of us here by grace anyway, which I deny and will answer a little later; it is idle, sir, to say that they may come here as accused and take part in these proceedings so long as they are denied the fundamental right to take part in the proceedings of the Assembly where this investigation originated, where the report of this Committee must return, and where in the meantime it is open to the Assembly to take such action regarding it as it may see fit.

If the exclusion of those men from the Assembly was unlawful, you have no more right to put them on trial than a court has to lock out of a court-room a defendant and proceed in his absence to render judgment against him. That is our position. If time permits, I will endeavor to elaborate on it a little more later; but I recur now, sir, to the question of whether the proceedings of the Assembly on the 7th of this month were valid or void. If they were valid, then no one has any right to complain. If they were void, then everyone has a right to complain. If they were void,

then the excluded Assemblymen have a right to complain. If they were void, the Bar Association of this State have a right to complain, as they have done. If that decision was void, all the people of this State have a right to complain and a right to resist. I wish to say — and I measure my words when I say it — that if the proceeding by which those men were excluded from the Assembly on the 7th of this month was an illegal proceeding, then, sir, the power that excluded them was not the power of law, but the power of violence. And permit me to say right here — the use of that word “violence” reminded me that I ought to say it — I observed, sir, that after Mr. Hillquit’s argument yesterday, which everyone who heard it will admit was a masterpiece of candid reason and fair statement, that he was charged by the other side in this case with trying to intimidate and threaten. You gentlemen who were here and heard Mr. Hillquit’s argument know how unfounded that charge was. You know how absurd, how ridiculous, how false were the headings that appeared in the papers last night: “Revolution if Assemblymen are ousted, says Hillquit.”

The Chairman.— I do not think you need spend much time on that.

Mr. Roe.— I am quite aware, sir —

Mr. Stanchfield.— Mr. Chairman, I do not want to interrupt Mr. Roe; but let me suggest that the motion is precisely the same motion in nature and character and substance that was made before the Committee yesterday, argued and decided and passed upon. There is no substantial difference between the motion that is addressed to you this morning and the one that was argued and determined yesterday.

The Chairman.— There may be some difference they may like to elaborate on. Proceed, Mr. Roe.

Mr. Roe.— I will say, in order that there may be no misunderstanding about it, that the motion that I am making is not a motion that was suggested yesterday at all. While it is true that the remarks of the learned counsel on the other side of the table were addressed very largely to this motion, the motion was not made, and no argument was made, in support of it. It was an entirely different motion, based upon a different ground.

The Chairman.— Very well. You may proceed.

Mr. Roe.—And in making the argument that I had intended to make upon this motion, sir, because it is the fact that most of the remarks of counsel upon the other side were, as I say, addressed to this motion and not to the motion that was made, I shall, in my argument, reply to so much of the argument of counsel on the other side as were addressed to this motion, and to that extent I may be able to shorten the argument I intended to make, although it will be in its nature somewhat sketchy as a result of my change in plans.

Now, sir, it was stated by one of the distinguished counsel upon the other side that the right to expel necessarily included the right to suspend. I cannot understand how counsel would make that statement except as a result of having failed to look at the authorities, or possibly to consider carefully the questions involved. I am sure I need not elaborate upon my reply to a committee of lawyers. The argument that the greater includes the less, as that argument was made yesterday, has no possible bearing here because you cannot speak of a motion to expel and a motion to suspend as an expulsion, and the suspension as proceedings of the same class.

The motion to suspend is a power exercised upon one state of facts in one manner, and to accomplish one result. Expulsion is a power exercised upon an entirely different state of facts for a different cause, and to accomplish a different result. The power to suspend is purely a power to punish for contempt, violation of the rules, or those proceedings which interrupted the orderly and regular proceeding of the Assembly. It has no likeness or similitude at all to the power to expel, which is exercised under different provisions of the Constitution of the United States when the expulsion takes place in that body; and under different provisions of the Constitution and statutes in this State when expulsion takes place here. From those provisions that relate to suspension.

Now, the language of the Constitution of the United States upon the subject is this: Each house is the judge of the returns — of the election returns, and qualifications of its members. Then follows some provisions not material here; and that each house has authority to make its own rules of procedure; and then follows the provision that each house may punish its members for disorderly behavior, and with the concurrence of two-thirds of the members present may expel a member.

Now, the provision of the Constitution of the State of New

York is the same so far as the language with regard to each house being the judge of the election returns and qualifications of its members are concerned.

When you go to the power to expel you go to the statutes of the State of New York and you turn to section 3 of the Legislative Law of the State of New York and you find there the power to expel. Then you find the power of discipline and you turn to section 4 of the Legislative Law of the State of New York, and you find, in substantially the same language as you find in the Constitution of the United States, somewhat elaborated, the causes for which members may be punished for contempt or disorderly behavior, or such conduct as interferes with the orderly transaction of business.

Now, one of the distinguished counsel upon the other side yesterday spoke of the case in the Senate here where three Senators had been suspended. Counsel was fair and stated the fact that they were suspended for recalcitrant conduct in the body of the Senate itself. And you will notice, sir, and I stand here now to say not only has there been no case cited from the other side, but there is no case to be found where either house of the Congress of the United States, or either house of the Legislature of this State, or I believe in any other, has ever endeavored to exercise the power of suspension except under the class of cases which I said where the power is necessary to preserve the order and continue orderly transaction of business in those bodies. That really is without exception. This government has stood for 130 years and never, sir, until the 7th day of this month has the power to suspend a member duly elected, duly qualified, duly sworn, has that power been attempted to be exercised, I say, until in this Assembly Chamber on the 7th of this month.

If you please, gentlemen, it is precisely that unlawful exercise of power, chiefly I believe which has aroused the bar associations of this State, which has aroused the lawyers throughout the State and throughout the nation and I am happy to be present here, gentlemen of the bar, gentlemen who with the rest of us are proud of their positions in the greatest profession in the world, and who believe that their position in any contest for constitutional liberty and right may be found in the forefront of that fight.

You see, gentlemen, immediately that constitutional government cannot survive, representative government cannot survive if this power of suspension is to be exercised as it was in this body

on the 7th of this month. How idle, sir, it is to put into the statutes of this State the provision with which you are all familiar that either house may expel its members after a hearing before a Committee, and upon the report being made by that Committee, if, without any hearing at all, without any debate, without any opportunity to be heard by anyone, this House can suspend by a majority vote any or the entire minority of its members. That is the reason, sir, that this power does not exist, has never been exercised and cannot be exercised if representative government is to continue.

While, of course, gentlemen, it is true that it was just five Socialist Assemblymen that were suspended a few days ago in this Chamber, you could just as well have suspended fifty members as five; you could just as well have expelled any minority party as those that were expelled, and, do not doubt that once this power is admitted into the legislative bodies of this country that is what will be done with it soon.

Why, sir, counsel upon the other side referred yesterday to the case of John Smith in the Senate of the United States, and read extensively from the opinion in that case of a Committee, and which was disproved and rejected by the House. But, counsel neglected to state — to state this significant fact — that that case was an excellent authority for him, except for the fact that upon both the propositions with which he cited it it was dead against him. In the John Smith case, as counsel well knows, he was not expelled, he was not suspended. Counsel says that John Smith walked out of the Senate of the United States. It has been my duty in other cases to carefully examine and to digest every one of the contested election cases in the Senate of the United States, and I have before me in that digest the John Smith case as well as a score of others.

My notes do not show anything about Senator Smith walking out of the Senate, neither in this particular case have I the record of his votes after the charges were preferred against him, so I don't know whether counsel was speaking from the record or from his recollection regarding the case.

Mr. Stanchfield.— He was expelled in 1910.

Mr. Roe.— But I have the record here of many other cases which I can name to counsel,—the case of Governor Powell against whom charges were preferred. I am speaking now, of

course, of men who were sworn in and were as much members of the Senate as these Assemblymen were members of the Assembly, and Governor Powell, from Kentucky, although charges were preferred against him and under consideration for many weeks, kept his place in the Senate and voted and spoke throughout that time. The case of Jesse D. Bright which I have here, one of the most celebrated cases and I might say the last of the Civil War Expulsion cases, kept his seat in the Senate, made one of the ablest speeches ever made in that body in his own defense, voted throughout the entire proceedings. But why, sir, should we go to ancient precedents? Come right down to the recent cases cited by the other side,—the Smoot case. While the charges were pending against Senator Smoot from 1901 to 1903, he was in the Senate every day in his place voting and speaking upon the measures there. Senator LaFollette of Wisconsin as you will recall was placed under charges in September, 1911, charges filed by the Governor of the State of Minnesota and a number of other prominent citizens there and those charges were not disposed of until a year later. Yet, he was in his seat every day voting and speaking, taking his usual and full part in legislation. And so it is suggested to me with Mr. Lorimer. My impression is, sir, that the Senator from Michigan, Senator Newbury, Mr. Littleton will correct me if I am mistaken, is keeping his place in the Senate during the pendency of the charges against him before the Senate Committee. If I am wrong about that Mr. Littleton will correct me as he is very familiar with that case. But certain it is that neither in the Newbury case, the LaFollette case or the Smoot case or any other case has it ever been suggested that those men while under charges could be suspended, and those were all cases where there was an intense partisan feeling. They are cases where the power of suspension would have been exercised if it existed and it was not even suggested. Here in your own Assembly a case that was spoken of here yesterday, the Decker case, I have had made up a partial list of the votes of Mr. Decker; I only had a few minutes to put upon it but I have here before me giving the page of the record and the different matters upon which he voted and the part he took in the Legislature. If from the statement of that case which has been made, if there ever was a case where the power of suspension would have been proper it was that case and yet not one word ever suggested the existence of it.

And when you come into the House of Representatives you

find exactly the same rule that you find in the Senate, that you find in your own legislative halls. I stand here to say never — never once — has a man been suspended — has a Representative been suspended — from the House, except under the exercise of the power to punish for disorderly behavior. There have been hundreds of cases over the country — the number of contested cases in the Senate and House number about 900. About 200 of those — from 100 to 200, I believe — include cases where charges were made against members and those charges were taken under consideration by the committees to which they were referred, and retained all the way from a few weeks to several years; and yet, sir, never in one of those cases has the power been exercised, or even sought to be exercised, to suspend.

The Roberts case has been spoken of here. I am going to discuss the Roberts case a little bit later, but I pause here to say, gentlemen: What does all this array of authority mean? I am addressing you as lawyers — oh, yes, sir, members of this Committee, I am addressing you as such — but as citizens and lawyers, most loyal to our government, our Constitution; and I ask you: What does all this array of authority mean? Why, it means just one thing: It means that the power that this House exercised on the 7th of this month was a revolutionary power, an unconstitutional power, a power that does not find the least support in any statute or any constitution or any precedent; and, sir, it is the exercise of a power which, unless you promptly do all you can to nullify that attitude, it is the exercise of a power that destroys representative government in your State. If, sir, it is true that a bare majority of the Assembly can at any time arraign a member — five members — or a minority at its bar; the Speaker from his position in his seat ordered the Sergeant-at-Arms to lay his heavy hands upon their shoulders and drag them before him, and then ordered them from this room without a word of proof, without even charges that were verified, then, sir, I say: What is there left of representative government? Where does the representation of the people come in if that power is to be exercised?

It was stated by one of the distinguished counsel on the other side yesterday — I use this merely as an illustration — he said this: "We take the position as counsel for the Committee that information came to the Speaker that these five men were actuated by the motives, controlled by the purposes and stood sponsors

to the principles to which I have briefly called your attention; and having that thought in mind, he could" — that is, the Speaker — "felt that it was his duty to deny these men the right to a seat in the Assembly of the State until a committee of lawyers could pass upon it,"

The Chairman.— Well, we recited that to indicate simply what had come to our information.

Mr. Roe.— I understand, but I am quoting it to this point: That Mr. Stanchfield, quite by the way and as a matter of course, said that it was the Speaker who denied these men their right to a seat in the Assembly until the Committee could pass upon it — quite by the way.

The Chairman.— Until the Committee could pass upon their qualifications; not whether they had the right to suspend them or not. We cannot pass on that. We might recommend, but we cannot pass on it. I would like to call your attention to the power we have; our power is to determine from the evidence as to the qualifications and eligibility of these gentlemen to report to the House. Now, the question of whether the House were justified in taking the drastic action they took is hardly a matter here, is it?

Mr. Roe.— Yes, your honor.

The Chairman.— Well, I would like to hear you on that point.

Mr. Roe.— That is exactly what I am arguing.

The Chairman.— I beg your pardon for interrupting. Go right ahead.

Mr. Roe.— This proceeding — the exclusion of these men from this Assembly — after they were sworn in, after they have qualified, after they have become just as much members of this body as they would be after they had been in for six months; this proceeding, I say, to try a title to their seat in this Assembly, whether you call it passing upon their qualifications or passing upon the question of their expulsion or not, I say — and I am addressing myself to your question precisely — I say it is to deprive these men to their right of their day in court; it is to deprive them of their right, as members of the Assembly, to speak and to vote

and to confer with their fellows in the Assembly, with regard to every step in this proceeding.

I understand, sir — I may be misinformed about it — I understand that there have been one or two efforts made in this Assembly to reconsider, or to change, the action that the Assembly took on the 7th day of this month. Now, if I am correctly informed about that, these men had the right to be on the floor of the Assembly at that time, if their suspension was illegal, did they not? If they had a right to be on the floor, they had a right to speak; they had a right to vote; they had a right to confer with their fellows; they had a right to do whatever Assemblymen do in the discharge of their duties to effect the result of that proceeding, the most vital to them in this case, one directly involving their seats.

And so it is, I say, that every step — I beg your pardon. And so, as I say, sir, if that act was unlawful by which those men were driven out of this body, for if it was not lawful, that is what it amounts to, then it vitiated every step in this proceeding. The appointment of this Committee, the adoption of the rules, every step that has been taken is vitiated because, sir, men who had the right to participate in that proceeding were excluded from that right, and those are the very men that you are here investigating, and it is upon your report that they will be resealed or unsealed in the Assembly. So it is, gentlemen, that I come to you most earnestly. I know it is a hard request to make in view of the circumstances, but I come to you most earnestly and entreat you for the sake of keeping our great State in line with the precedents established from the foundation of this government. For the sake of keeping clean our reputation as a law-abiding State, I come to you and ask you, as the great lawyers of the Assembly charged on your Committee, the most important in the Assembly, with giving legal advice to that body, I come to you and I venture it and ask you to report back to the Assembly, sir, after this discussion which is the first that will ever have been had on this subject before a Committee,— at least, I do not know what has occurred in the Senate, and ask you to report back to the Assembly that that act was an unlawful act, and that these men were entitled to their seats, and that because of their exclusion from this entire proceeding, any judgment that you render here will be a tainted judgment, not through fault of yours, not perhaps through conscious fault of anyone. I am not here to make charges against anyone. I do not know the facts. I am

simply speaking about the record, but I say because of what has occurred, any judgment or report that you may render here is bound to be a tainted one, tainted with the vice of the illegality of the proceedings. Ordinarily, it will not be, sir, accepted by the people of this State. It will not be accepted by the Assembly. It will not be accepted generally with the Constitution that it is for the interests of all of us usually attached to every report emanating from this great committee of lawyers of the Assembly. And, after all, if a mistake has been made, isn't it much better, much better to kill the mistake at the start, upon the firm foundation, than it is to persevere in it when it carries as its consequences such terrible results as this mistake does if you go through with it.

Why, gentlemen, I am going to turn to a matter which explains everything that has occurred here. The honorable Speaker of this body, whom Mr. Stanchfield says was the man who suspended the Assemblymen, in a frank interview upon that subject published in the papers of New York on January 16, 1920, gives this account of what occurred and his reasons for it.

The Chairman.—What is the idea of that?

Mr. Roe.—It is to show exactly how the mistake occurred in the proceeding by which these men were suspended, as they were, a pure mistake of law.

Assemblyman Cuvillier.—That is newspaper stuff.

Mr. Roe.—No.

The Chairman.—I dislike very much to curtail you in your argument. Is it very long?

Mr. Roe.—Oh, it is very short. It simply illustrates the point I am making.

The Chairman.—Is it a newspaper interview along the lines I had yesterday?

Mr. Roe.—No, sir, I do not know anything about that. It is an interview.

The Chairman.—Well, you may read it.

Mr. Roe.—In that interview he says, and I ask your attention particularly to this because it is very significant, and you understand, sir, that I am —

The Chairman.—I am not curtailing your argument. I wanted to get at the gist of this matter.

Mr. Roe.—I know you do, and I want to argue the gist of it, and I want to say this, Your Honor, that it must be understood that we are speaking with the utmost courtesy here, reflecting upon no one. Anything of that sort is farthest from my thoughts or my purpose, but we are honestly trying, as I take it, sir, to get at the origin of this mistake, and see if it can be corrected before the results become any more serious.

The Chairman.—You may proceed.

I seem to have been the only gentleman who has been questioned in the course of the argument and perhaps I ought to say, if my language is at all intemperate I do not mean it. I certainly don't want it charged up to the Socialist Party because it just happens that I am not a Socialist; I am just an old-fashioned Republican who believes in the Constitution and the Declaration of Independence.

Mr. Hillquit.—The Socialist Party holds your language as not intemperate.

The Chairman.—There is no such idea occurred at all.

Mr. Roe.—I am very glad to hear you say that. I was a little apprehensive. And in this interview the Speaker said, speaking of the Roberts case,—that case has been mentioned so much on the other side it shows the fundamental policy of all their reason, in the case of Brigham Roberts, elected from the State of Utah to the 56th Congress, his right to sit was challenged on the ground that his conduct had rendered him ineligible and a resolution was adopted by the House denying him the right to a seat until after the report of the Committee appointed to investigate as to his qualifications. The question of procedure was shortly raised by an amendment offered to the resolution. Now, note the language. "Which would have permitted Mr. Roberts to take and occupy his seat until the final determination of the Committee." The amendment was defeated and the original resolution adopted by an overwhelming vote. Note well now. The amendment which was offered to the resolution was one which would, had it been adopted, have permitted Mr. Roberts to take, not only take but occupy, his seat until the final determination by

the Committee, and that was a perfectly correct statement of the rule of law.

Now, what was the amendment? I have it here. You will find it in the Congressional Record of the 56th Congress, pages 38, 53. It is also referred to in Hinds' Precedents, Volume 1, page 515. The resolution before the House, mind you, was to refer the charges against Mr. Roberts to a Committee of the House to investigate; bear in mind that Mr. Roberts had never been sworn in, he had never become a member of that body. Now, what was the amendment proposed to the resolution: "That said Brigham H. Roberts is entitled to be sworn in as a member of the House upon his *prima facie* case." That was the amendment and of that amendment the Speaker says and says correctly that had it been adopted it would have enabled Mr. Roberts to take, not only take, but to retain his seat throughout the entire investigation. That is on the authority of the Speaker and it is perfectly correct, and yet, sir, that would simply have put Mr. Roberts, had that amendment been adopted, that would simply have put Mr. Roberts in precisely the same position that these five Assemblymen were in when they were expelled from this Chamber. Now, a great mistake occurred. The Roberts case was misread. It was not understood at that time. I imagine, sir, that this Judiciary Committee were not called into consultation on the legal propositions involved and it was not understood that Roberts at that time was not a member of the House at all. He was merely knocking at the door; he was merely an applicant and of course, sir, the difference between being a member and being merely an applicant for membership is a fundamental difference. It is the difference, if you please, between an inchoate right to dower and invested right; it is the difference between a contract for the sale of land and being in possession under a warranty deed. It makes all the difference in the world as to the status and the standing and the law and the rules applicable to the two cases. And while it is true that in the case of these five suspended Assemblymen they were only members permitted to occupy their seats, I understand only a few hours, that makes no difference. If they had been there for days and weeks they would have been no more members than they were at that time, and if you apply that rule now with a man who has been a member one day, tomorrow it will be applied, they will claim and apply it and you cannot answer their objection to men who have been members of

the Assembly for days and weeks and months. There is no place to stop. That is why it is that Judge Hughes, Judge O'Brien and the other gentlemen — I speak of it because it is a matter of record here — and other distinguished gentlemen have come here and have entreated this Committee, as I now entreat it, to recognize and admit, not the Committee I don't mean, but that the Assembly recognize and admit the mistake that has been made, and that this Committee as a judicial body of the Assembly advises that body correctly with regard to the law and the precedent.

Oh, Mr. Little said yesterday, that the members of the Assembly were not sworn in at the Bar of the House as they are in the House of Representatives and as they are in the Senate, as though that could make any possible difference. As a matter of convenience, if it is desired to file charges or raise questions with regard to the qualifications of the members before they take their oath, it certainly is convenient to do it under your practice, as much so as of that of the House of Representatives. If the charges are filed with the Secretary of State it would undoubtedly be his duty to decline to administer the oath. But whether you have a procedure admirably designed for those preliminary objections or not makes no difference. Once a member becomes a member he is a member for all purposes, and that reminds me of one point I want to emphasize that Mr. Hillquit made yesterday — the laws and precedents applicable in the Congress of the United States are applicable, or the principles at least are applicable here, and the constitutional provisions are much the same except for this. This Assembly cannot add one jot or tittle to the qualifications which the Constitution has laid down. That is provided for in the Constitution itself. The very oath which Mr. Hillquit read to you yesterday provides that no other test can be required and I want to say to you that that has been construed by the Court of Appeals of this State. You will find a case, and there are other cases upon the same point, but sufficient of them in the brief filed by Judge Hughes and his committee yesterday. The Court of Appeals says squarely that there is no power in the Legislature to add anything to the test which the Constitution has laid down as a right to membership here. There is no provision in the Constitution and so it has come about that in two or three cases, not more than that, and one of them is the Roberts case; one is the Berger case in which under the peculiar circumstances of both cases they

did not take the credentials upon their face and so they could not inquire into them. That, however, is the rule in the Senate. That is the rule with the two or three exceptions I have noted in the House of Representatives. That must be the rule in this body because the Constitution says so and the Court of Appeals has so construed the constitutional provisions, that qualifications mean the qualifications prescribed by the fundamental law of the State, and as I understand it in this Decker case that was precisely the ruling made in that case determined in 1918.

So that I call attention to that and desire to emphasize it because I didn't know but in the very able argument of Mr. Hillquit, which covered a great deal of ground, you might lose sight of that point as being the only point of difference between the powers which members of this Legislature have in this matter and the powers which the House of Congress has.

Now, gentlemen, I have gone over hastily this argument — I did not know that we were going to take up so much time on these preliminary motions — we all want to hurry along here as fast as we can, and I am going to leave unsaid, unless it may become pertinent to say on some other occasion, much that I had intended to say upon this particular motion; but before I pass from this point in closing what I have to say, I call your attention to this language used by the honorable Speaker — a part of the record in this case — in directing that these five Assemblymen be removed from this Chamber. He said — and I quote from a certified copy of the stenographic report: “If this House shall adopt a resolution declaring your seats herein vacant, pending a hearing before a tribunal of this House, you will be given an opportunity to appear before such tribunal to prove your right to a seat in this legislative body.”

Now, gentlemen, I need not remind you, sirs, that these Assemblymen are not here to prove their seat, to prove their title to anything. We all of us as lawyers are familiar with the fundamental proposition that they are presumed to be innocent until the contrary is shown; they are presumed to be worthy until the contrary is shown. It is not true, sir, that the fundamental constitutional principles of this government can be subverted in that manner by arraigning these men at the Bar here and saying that, “It is for you to prove your innocence.”

The Chairman.—In other words, you say that they must produce proof before us to show that they are disqualified?

Mr. Roe.— Certainly.

The Chairman.— As a fundamental proposition?

Mr. Roe.— As a fundamental proposition.

The Chairman.— I get your idea.

Mr. Roe.— And it was simply a mistake on the part of the honorable Speaker, where he was entirely mistaken on the law in this proposition; and the question before you gentlemen is whether now — and I will state it colloquially — whether now you are going through with this without the simple act of putting these men back and taking your Assembly out of the line of precedents, which have existed since the foundation of this government, or whether you will follow the Constitution; and the Constitution of New York, I may say, expressly in its general provisions prohibits any action of this sort. While that is being looked up — it is a familiar provision — I will call your attention to what I would like to say and conclude by reading that section of the Constitution.

The question is: Do you want to correct your position as far as you can or whether for any reason it is going to be determined: "We are through with it. Let the consequences follow."

I stand here, sir, and ask the other side if they can find one single instance, in the Legislature of this State, or in either the House or Congress, where a member duly elected, duly sworn, who has entered upon the discharge of the duties of his office, has ever been suspended except it was for violation of the rules, disorderly conduct or some contemptuous action which interfered with the orderly transaction of the business of the House? And I say that if such a precedent cannot be found, it is conclusive evidence that it does not exist; and if it does not exist, we know that the action which the Assembly took, a few days ago, cannot be a valid action.

"No member of this State shall be disfranchised or deprived of any rights or privileges secured to any citizen therein unless by the law of the land or judgment of his peers."

That simply embodies a principle of law as old as our government. It is in the State Constitution, the Federal Constitution, that no one citizen shall be deprived of the rights secured to

any other citizen; that all men should be equal before the law, and I say to you that when these men, without lawful authority in the Assembly, were driven from this floor that provision of the Constitution, as well as the others that have been referred to, was violated.

Assemblyman Cuvillier.— Mr. Chairman, with your permission I would like to ask Mr. Roe one question.

Mr. Roe.— Yes, sir.

Mr. Cuvillier.— Will you concede that a member-elect is not a member of the House until he is sworn in?

Mr. Roe.— That a member-elect is not a member of the House until he is sworn in?

Assemblyman Cuvillier.— Yes, sir.

Mr. Roe.— That is my understanding.

Assemblyman Cuvillier.— Will you also concede that the power of the Legislature to exclude also has the power to suspend?

Mr. Roe.— Oh, no.

The Chairman.— You hold the other way on that?

Mr. Roe.— Oh, yes, I argue the other way. I am sorry I did not make myself clear on that.

The Chairman.— Yes, you did entirely.

Mr. Stanchfield.— Mr. Chairman and gentlemen of the Committee, I repeat in reply to the argument of Mr. Roe the conversation embodied in my motion during the progress of his argument, and that is this: That in all substantial respects the motion made by Mr. Roe is similar to the motion made by Mr. Hillquit. In other words, under varying language, technical in some instances, liberal in another, they request at the hands of this Committee such action as will dismiss the proceedings that have already been had, and will seat the five men under investigation.

Now, in a broad and comprehensive way that is the nature and the character and the purport of these motions, and it is the relief they expect to acquire.

Now, let us for a moment assume that there are no precedents

for what this Assembly has done, and with that thought in mind I read a sentence from a speech made by Senator Sumner of Massachusetts anent the removal of Senator Stark: "There is no desire, Mr. President, to make one single remark. It is said that the proposition now before the Senate is without a precedent in the occasions to which new duties, new precedents, are to be made when the occasion requires. Never before in the history of our government has any person appeared to take a seat in this body whose previous conduct and declarations, as presented to the attention of the Senate, gave reasonable ground to distrust his loyalty."

That case, sir, is without a precedent. It devolves, therefore, to the Senate to make a precedent in order to deal with unprecedented cases. The Senate is at this moment engaged in considering the loyalty of certain members of this body, and it seems to me it would poorly do its duty if it admitted, amongst its members, one with regard to whom has come forward to take the oath there was a reasonable suspicion.

Now, this investigation is being conducted into the loyalty of the five men involved in this proceeding, and irrespective of whether or not there is in the history of the State of New York a precedent, this occasion demands and requires that the Assembly of this State in defense of its own dignity make a precedent.

When the Chairman read from the statement yesterday that the charge against these men was disloyalty, and that they had affiliated themselves with a party whose platform and whose program called for an overthrow of this government by violence, he stated, what I say to this Committee we will prove beyond all shadow and shade of doubt.

We are not, Mr. Chairman, upon this investigation engaged in a discussion of the philosophy or economics of Socialism. We are engaged in the investigation into its tactics; into its methods; into its practical program, and those tactics and those methods, and that program called for the overturn of the power of this State and its annihilation, its utter and its complete annihilation. That is the question that is presented to you here.

Now, a moment, and I will have done. Both Mr. Roe and Mr. Hillquit have had much to say about the fact that the Roberts case is not in point, and in order that any member, and every member, of this Committee may be disillusioned of the thought that it is not in point, I purpose to read from the record just

what was decided in that case, and just what the issues were, and when I shall have done I think every man upon this Committee will be convinced for all time that your proceeding is in harmony from a certain legal point of view with exactly what occurred in the Roberts case.

You will, of course, understand that members of this body do not present themselves at the Bar of the Speaker and there stand and have the oath administered. Upon the contrary, they do it in their homes. They do it in the office of the Secretary of State. They may, perhaps, transmit it by mail, so that when this Assembly is first called to order, the only way in which the right of a man to his seat can be contested or raised is to deny him the right to his seat.

In the House of Congress, in Washington, when the lower body is called to order, the men appear at the Bar of the House and the oath is there administered in the presence of the body of the House, and if anyone wishes to challenge the right of another to his seat, he asks the presiding officer that the man who proposes to be sworn in shall stand aside until the question of his fitness and of his right to sit shall have been determined or passed upon. So that there is that distinction and that difference in the method of procedure between what takes place here and what takes place in Washington.

In the case,—and I am reading from Hinds' Precedents, in the case of Brigham H. Roberts in the 56th Congress, the House declined to permit the oath to be administered to Brigham H. Roberts pending an examination of his qualifications by a committee. On December 4, 1899, at the time of the organization of the House, and while the swearing in of the members was proceeding, the State of Utah was called. Thereupon Mr. Robert W. Taylor, of Ohio,—and I want the Committee to bear that name in mind for another proposition—Mr. Robert W. Taylor of Ohio said: "Mr. Speaker, I object to the swearing in of the representative elect from Utah, and to his taking his seat in this body. I do so, Mr. Speaker, on my own responsibility as a member of this House, and because specific, serious and apparently well-grounded charges of ineligibility are made against him, a transcript of the proceedings of court in Utah evidences the fact that the claimant was, in 1889, convicted, or that he pleaded guilty of the crime of unlawful cohabitation, affidavits and other papers in my possession indicate that ever since then

he has been persistently guilty of the same crime, and ever since then he has been and is now, a polygamist. I ought to say in addition to what I have just said, that I have in my possession a certified copy of the court records under which the claimant to this seat was supposed to be naturalized."

The Speaker requested the member-elect from Utah to step aside until the remainder of the members-elect were sworn in.

Then Mr. Taylor, the same Mr. Taylor, offered this resolution:

"Whereas, It is charged that Brigham H. Roberts, a representative elect to the 56th Congress from the State of Utah, is ineligible to his seat in the House of Representatives, and whereas, said charge is made through a member of this House, on his responsibility as such member, and on the basis, as he asserts, of public records, affidavits and papers evidencing such ineligibility,

"Resolved, that the question of the right of Brigham H. Roberts to be sworn in as a representative from the State of Utah in the 56th Congress, as well as of his final right to his seat therein as such representative be referred to a special committee of nine members of the House to be appointed by the Speaker, and under which such Committee shall report upon, and the House decide such question, and the right of the said Brigham H. Roberts shall not be sworn in or be permitted to occupy a seat in this House, and said Committee shall have power to send for persons and papers and examine witnesses, under oath, in relation to the subject matter of this resolution."

I may add that the same Robert W. Taylor was appointed by the Speaker as Chairman of that Committee. So that when you stop for a moment to contrast the proceeding that took place in the Roberts case, barring the difference in the way in which they are inducted to their seats between the Congress and the Assembly of the State of New York, you will see the two cases are precisely analogous. The situation is the same, and the Roberts case is much stronger in this respect, that the Chairman of the Committee to take the testimony and hear the evidence and make the report was the member who made the charges in the first instance. So here we have all that could be done on the face of the resolution to which your attention has been invited by the Assembly of this State, in which upon its face are recited certain

reasons why the final action is taken,— and what is the action? Not that these five men be suspended, but that these five men were denied seats in this Assembly, pending the determination of their qualifications and eligibility to their respective seats. I submit once and for all in answer to this interminable line of argument on the floor of this Committee to proceed, or the authority of the Assembly of the State of New York to purge itself with or without reason of the presence of any man that it deems inimicable to its interest, or whose conduct or remarks justify the statement that he is disloyal to the standards of the Assembly of the State of New York.

Mr. Hillquit.— Mr. Chairman: since I am largely responsible for the procedure on our side, and since it seems to have created some confusion in the minds of our learned adversaries and perhaps also in the minds of the Committee, or some of its members — I hope not — I wish to make it once more clear in as few words as I possibly can.

We have three separate and distinct objections to the charges before this Committee. One has absolutely nothing in common with the other. Our first proposition is that this Assembly has no power to inquire into any qualifications of its members except those mentioned in the Constitution. That we have argued. That has been disposed of. If that motion had been granted, that would have ended the proceeding.

The second proposition which Mr. Roe argued to-day is that even if you had the constitutional right to inquire into the qualifications of these members; if you had the right to add additional qualifications, you have no right to exclude these five members on the charges pending the hearing on them, and that their exclusion vitiated that proceeding; renders the Assembly an illegally constituted body; that you cannot report back to the Assembly as a legally constituted body; that the Assembly cannot act on your report without these five constituting a part — an active part — of this Assembly, capable to debate, capable to vote upon it. And, as Mr. Roe very rightly said about it, while the principle may not seem to be very vital in the case of five men, the vitality would warrant if it was fifty. The principle is exactly the same.

So that Mr. Roe's motion, made this morning, is not, as Mr. Stanchfield erroneously assumes, a motion to the same effect,

namely, to seat these five Assemblymen and terminate the proceedings. No. On Mr. Roe's motion the five men would be seated pending your investigation and report, and that investigation would go on and your report would be made; and as to whether or not they are to retain their seats permanently would then be decided by a competent Assembly embodying these five members. So you see, gentlemen, this is an entirely distinct proposition. I have not touched it in any way yesterday because I had reserved it for Mr. Roe's argument. Mr. Roe has not encroached upon the other one; and in order to forestall a somewhat similar situation I will say that we are going to follow it up by a third motion: A motion to dismiss on the ground that even assuming that you have a right to ask qualifications and to proceed with your inquiry in the absence of these five members, or the denial to them of their seats, even so, your charges must be such as to constitute a cognizable offense under any legal definition, and that the charges before you, regardless of the question of whether you have a right to consider them or not, do not constitute such an offense, and even if proved, would not authorize you to recommend an expulsion of these members.

So you see these are three separate propositions, each one standing on its own and very separate bottom, each one dealing with an entirely different set of facts and law, dealing with a different situation. I shall not at this time go into the questions collaterally raised by Mr. Stanchfield. If it is the Roberts case that is your authority, gentlemen, manifestly you shouldn't waste another minute in this proceeding for it is no authority, offers no analogy of any kind. As Mr. Roe well pointed out in the first place the Constitution of the United States does not contain that express mandate to Congress not to add any test or additional qualification as the Constitution of New York does. In the Roberts case again the House of Representatives acted upon a very definite statute which made the polygamist ineligible to office. In the Roberts case the member who presented himself came there with the conviction of crime rendered by a competent court. In the Roberts case finally a member presented himself in violation of the provisions of the act of statehood by which his constituency claimed admission to the House. Now, gentlemen, if you will produce records of conviction of these five Assemblymen of any crime which by statute makes them ineligible to hold office; if you will show that they come here in violation of a solemn compact with

the five respective Assembly districts or their constituents, if you will show all that, then you may claim some analogy. But so far the only analogy between the two cases is that in one case a certain individual was denied a seat in the House of Representatives and in the other case five other men on an entirely different state of facts are denied seats in the Assembly. I claim there is absolutely no analogy but, of course, I hope we shall have another opportunity in summing up to go over the case if necessary.

The Chairman.— This motion, then, is based on the proposition that this matter cannot be continued because the court that we report to lacks a certain membership, is that your idea?

Mr. Hillquit.— More than that; that the court to which you are to report —

The Chairman.— That is the Assembly.

Mr. Hillquit.— That is the Assembly, and of which you are a part, has rendered itself illegally constituted and inefficient for any action by the exclusion of these five Assemblymen under the circumstances.

The Chairman.— Under the proposition that the Assembly must consist of 150 members.

Mr. Hillquit.— Exactly that the Assembly must consist of 150 members and each member is just as important as the other member and constitutes as organic a part of it. That is the proposition.

The Chairman.— Unless there is further argument —

Mr. Hillquit.— Mr. Roe wants to refer to the Stark case mentioned by Mr. Stanchfield in connection with the argument.

Mr. Roe.— In the first place we have got into this proposition. It is admitted, no question about it, that with all the array of counsel on that side; all the forces of the Attorney-General's office — all the forces of the two ablest lawyers in the State of New York, there is not to be found a precedent in all the history of the country or the Legislature of any State supporting the action taken here in the Assembly. That is settled. Secondly, the only authority that is produced here is a quotation from a speech made by Senator Sumner in the Stark case. I have the

Stark case digested among this other list of cases and I will say just a word about it so you will understand that reference.

That was the case of the Senator from Oregon, one of the Civil War cases. An objection was made to his being sworn in. Senator Sumner made that objection. He got no following in the Senate at all and he was sworn in. He then argued that the offense with which he was charged was an offense which if expulsion was not justified under precedents it ought to be. He got no support for that proposition on the facts because he was overwhelmingly defeated on it as the vote shows and instead of getting the two-thirds majority he only got 16 votes for expulsion as against 21 votes necessary to expel. So much for that case. Now the Roberts case I will not touch upon.

The Chairman.—That has been pretty thoroughly discussed.

Mr. Roe.—I am not going over it again. Governor Stanchfield in his last sentence admits the whole error of their position. He says the Assembly has the right to purge itself of one whose conduct justifies the charges in this case. Our complaint is, and it is the thing that rendered that expulsion illegal, or that suspension illegal, is that the Assembly has undertaken to purge itself, as he calls it, of these men without knowing whether those charges are justified or not or having a word of evidence to support them.

The Chairman.—Now, that record, I think, shows the theory of Mr. Hillquit's motion, I would like the record to show that the motion is denied and an exception to Mr. Hillquit. Is there a further motion?

Mr. Hillquit.—Yes, the one I foreshadowed on the insufficiency of the charges, on the merits of the charges. That motion will be made by Mr. Stedman.

Mr. Seymour Stedman.—Mr. Chairman and gentlemen of the Committee: By overruling the motions which have been presented you have constituted yourself a tribunal to report on the qualifications of the Assemblymen who have been excluded from the House. I cannot pretend in what I may have to say to meet the exquisite anarchistic doctrine that you have the privilege of excluding undesirable members with or without reason. I assume that the theory of the constitutional government is that a body

whose action cannot be reviewed by a higher tribunal imposes upon itself laws, rules and regulations for a methodical method of procedure and determination. I assume that in this proceeding the defendants are entitled to a statement of the offense or a statement of fact constituting what it is assumed to be sufficient to disqualify them from participation in its Assembly.

We have been served first with a document containing some seven paragraphs; also a document in addition to that which may be regarded as an elucidation or an extension of the charges or statements upon which this Committee came into existence and was to act. The first is adherence to the convention in Chicago which assembled in August, 1919, wherein the solidarity of the party with which they were affiliated with the revolutionary forces of Soviet Russia was declared to have taken place. There is no statement here in precise terms of what that convention declared. There is no statement here to designate the character of the Soviet-Russia to which these men adhered and which you, or those who framed this, regard as such an infamous offense in a foreign land that an American judgment upon a foreign condition becomes a reason for exclusion here. Following that, which I will consider along with this, is the statement that, by adherence to such declaration, the party has endorsed the principles of the Communist International now being held, which is news to us, in Moscow, which International pledge is to a violent overthrow of organized government. Following that is your elucidation that by adherence to such declaration, the party has endorsed the principles of the Communist International now being held and the Assemblymen are in hearty accord and sympathy with the Soviet government as it exists in Russia to-day and they have declared their solidarity therewith. That after the schemes or programs of the Soviet government were fully known and their practices or principles revealed, this machinery of which these men are members, in deliberative convention declared their allegiance and solidarity with such Russian-Soviet government. The time has been changed in it from the day of the convention to the day when this document was drawn and presented here.

The condition in Russia, judging by the public press, has also gone through a change and transformation in the minds of some of the world's most influential statesmen. It is often reported in the daily press that in Europe they are to resume, or initiate, trade and commerce with the co-operatives of Russia. To anyone with brains, who knows that industry is a part of the state

and the state a part of industry, that becomes a commercial recognition of a political structure based and growing out of the economic structure of Russia, a large and influential factor of which is its co-operative movement.

Never before have we regarded a person's opinion as to the economic or political fabric, or the social institutions which apply to another country, as a condition of membership in a legislative body. We exclude a man because he believes that the people of Russia have a right to develop their own economic and political life in their own way. To-day — you lead out with that; that is the attack made against these Assemblymen — you might have gone further with equal truth and said that in the same convention a resolution was passed by which the same sympathy that was extended to Russia, the same heartfelt approval was extended to those in Ireland, who believe in self-determination and their liberty. And you could have followed it up with the same applicability to Egypt; you could have followed it up with the same applicability to India; in other words, the doctrine of self-determination meant to the Socialists the language which it purports to carry; and believing in that, would it become a crime to stand for Irish independence, for India's, for Egypt's, as we stood for that of Russia? But the offense here is that these men have views on a foreign political system; no intimation, no declaration of fact, that they propose, or even dream, that a system which naturally develops from Russia's material conditions are adaptable to a highly complex industrial system such as that of the United States.

I suggest that in your first clause — the moment you assume, right or wrong, that you have the right to exclude them for that, then you have a right to exclude any man at any time, who thinks that in some other country they should or should not adopt a given course of action.

And how do you know that these gentlemen who assume that Russia to-day stands for wild and disorderly anarchy, that that is correct? People suffering for a half, or more than a half, thousand years, in ignorance and oppression, are engaged in a great war, where they lose more than all the other armies engaged in the conflict — corruption, disorganization, dishonesty. The army comes back on them — a great mob — they dissolve an army of 12,000,000. They re-equip, in the face of that, an army of 2,000,000. They fight on seventeen different points at a time, and on four great fronts. They fight against an organized, equipped

army. They develop an educational system. They start the building of six railroads in the midst of it all, with four armies attacking them from the east and west and south. Is that the Russia that you are objecting to, and which —

The Chairman.— That really is outside of the question.

Mr. Stedman.— Maybe it is. Let us see if it is. The convention expressed its sympathy with Russia. It charges that they did express that sympathy. That is the charge, and it is your first charge. It is your introduction. In other words, you condemn the convention, if you please, Mr. Chairman, because it sympathized with the Soviets of Russia, and, not satisfied with that, you condemn these men because you say that they approved of the action of that convention. In other words, to condemn them you say first, what? The conditions in Russia — bad. Next: That the convention approved of it. Next: A third inference that these members approved of the action of the convention and thereby approved of a situation in Russia which, in detail, is not what you describe it to be. You say that the schemes and progress of the Soviet government were fully known — that is the language of your Committee — and their practices or principles were revealed. What principles were revealed? What practices in Russia were revealed? Its educational institutions are developing very rapidly. What particular practice was it that your Committee had in mind, that you charge as an offense against these men, because in their minds they believed in some practices? You charge them here that after the schemes and workings of the Soviet Government were fully known — we meet the proposition there, gentlemen — what may be fully known to you may not be fully known to them; what may be fully known to me may not be fully known to you. Can you not see that this very statement fails to state a fact, and that if it did, it might state that which you would perfectly agree with and not regard as a mental condition, possibly existing in the minds of these men, to which they should become outcast. It is the charges here. It is your language, not ours. It is your condemnation of the situation in Russia, not ours. It is your conclusion of what you regard the situation to be over there and what you consider these men have improperly endorsed and approved of.

To go further, that a deliberative convention declared their allegiance to the situation there — in other words, approved of a

Soviet system. Now, along with this I should call your attention to this fact. In France they elected 60 deputies to the House. They were Socialists. They made the issue there Bolshevism. Those men and their party had declared for the right of Russians to govern themselves in their Soviet form. Arthur McDonald, Snowden and the Labor Party of England has done the same. The minority Socialists of Germany and the Socialists of Italy have declared for the same. Also of Norway. There they have taken precisely the same position that the Socialists Party has taken in the United States. Over there it is not regarded as an offense. Here it is not an offense for which a person can be tried and convicted and sentenced to the penitentiary. Here it could not even form the basis of a civil libel suit. In other words, if a man was prosecuted civilly for saying I approve of the system in Russia, it would not serve as a basis for a libel suit if the charge was falsely made, because it after all comes from an opinion from the news gathered from various sources, as to whether we approve or disapprove of the cause of action.

So I declare to you as to your first count you are charging what? First, that the system in Russia is so reprehensible that if a convention approves of it and a man is a member of a party through whose convention such declaration is made that he becomes thereby, by reason of that, disqualified to sit in your midst. There is no other way around the first paragraph except the very fanciful way of saying you have power and wrong or right we will do it anyway. But before I leave that phase I wonder what the gentlemen would say if the doctrine and the theory of wrong or right, you have the power, obtained from the soapboxer on the street instead of a distinguished lawyer who should recognize there is imposed upon all bodies some measure of regulation and duty to that.

Next, and I cannot pass it also by saying that we are not at war with Russia. It is true some of our troops are over there. It is true that our allies, or in the language of Mr. Wilson our associates, have troops there. There were French troops, there were English troops, there were American troops. It was rather unfortunate for some of our associates' troops. Russia shot a few ideas into their regiments and their regiments refused to work. It shows that ideas are very dangerous sometimes even to militarism, perhaps more dangerous to that than anything else.

The Chairman.— You are not discussing your complaint — what is the matter with you ?

Mr. Stedman.— I am stating this complaint does not charge facts which, if proved, would justify excluding these men.

The Chairman.— Now explain to me why not.

Mr. Stedman.— Because an opinion as to whether the Soviet is good or bad is not a qualification for membership in this body.

The Chairman.— That is a matter for us to decide.

Mr. Stedman.— True.

The Chairman.— The complaint says one thing and your answer is another.

Mr. Stedman.— That is what I want you to decide on this motion.

The Chairman.— This is a motion on the pleadings.

Mr. Stedman.— Yes, sir. In other words, if this were an indictment and you stated in the indictment these men, you stated this man was a member of the convention and the convention declared in favor of a condition in Russia and the indictment set out that the condition in Russia was well known you would come in and plead there a demurrer or a motion to quash. All right. That is where we are in this proceeding.

This is hardly an indictment; this is an allegation. Strict criminal law cannot apply here. We are not claiming these people are criminals.

Mr. Stedman.— No, no, Your Honor, you are not.

Mr. Hillquit.— Just a moment, does the Chairman desire to have that of record that there is no claim on the part of the accusers that these five men who have been denied seats in the Assembly are not criminals?

The Chairman.— The Chair would like to have it appear on the record that he does not so understand it; of course, the Chair may be very much in error.

Mr. Hillquit.— It is important to know. If they are not charged with crime, if they are not charged with anything else, what are we here for?

Mr. Littleton.— Mr Chairman, does the gentlemen think that everybody who falls short of the criminal statute, eligible for election to a legislative body?

Mr. Hillquit.— Some who do not fall short are sitting in it.

Mr. Littleton.— Is that a charge against this legislative Assembly?

Mr. Hillquit.— No, against legislative bodies generally.

Mr. Littleton.— What legislative bodies do you charge—

The Chairman.— Gentlemen, we cannot have this. Discussion as to the ignorance of the Chair, of course, is always pertinent.

Mr. Hillquit.— No, no, it was not that.

Mr. Stedman.— Mr. Chairman, one statement which you made and which is important where you say the charge is general, that may be true, but the charge is only general in this that your conclusions cover a wide scope, but no matter how general they are, no matter how inclusive they may be, you specify no act which you can say would justify the exclusion of these men. That is the point I have in mind.

In other words, supposing we say to you this minute we make no contest on your first cause; we have no evidence to offer; you need offer none. We plead guilty to it. That is the proposition.

In other words, we say whether in Russia they do it; whether in Chicago they express their sympathy with the working people and the government today that exists in Russia; whether these men are affiliated with that organization, and just to the extent that you, as a member of the Democratic or the Republican Party, would be bound by the proceedings in its convention, and in its resolution of sympathy possibly with some other country, just to that extent so I do apply here, and we say supposing it is true. That is the problem that is before your Committee. Now, you say if we plead guilty this moment to the first cause that that disqualifies us in the very glaring way and extensive way in which it is portrayed there. That is what I refer to.

Now, moving on to the next count in this statement -- I may refer to the others in a few minutes -- referring now to the next count which reads, Section 5, Article V of the Constitution -- "in all my political actions while a member of the Socialist Party I agree to be guided by the constitution and platform of that party."

The Chairman.— Mr. Stanchfield, will we recess until 2 o'clock?

Mr. Stanchfield.— Yes, sir.

The Chairman.—The Committee will recess for lunch until 2 P. M.

Whereupon at 12:40 P. M., the Committee recessed to meet at 2 o'clock.

AFTER RECESS, 2 P. M.

After Recess the Committee convened at 2:07 P. M.

Mr. Stedman.—Mr. Chairman, I should like to refer for a moment to the first point or charge against the Assemblymen here to call attention for emphasis to the proceedings of this House. On the 13th day of January, 1920, at which time there was a resolution introduced by Mr. Claessens, and another resolution by Mr. Donnelly, one after reciting the different proclamations of the United States and following in the language attributed to the President declares for an unhampered and unembarrassed opportunity for the independent education of their own political development and national policy. This is referring to Russia; and following that was the resolution by Mr. Donnelly which referred, in similar language, to Ireland.

I feel also that perhaps too rapidly I passed by the reference and method by which the first charge is attempted to be stated, and that is, that the convention of the Socialist party approve and declare its solidarity to its Soviet Russia. That is the statement which we may regard as a statement of fact by the pleader. Then from that you say, that by adhering to such declaration the party has endorsed the principles of the Communist International; and then proceed to state, after referring to that International as still in session, that the International is pledged to the overthrow of all government by violence.

Now, mark the fact that a form of government is approved by a national convention for that country you regard as sufficient to draw the inference that by some mysterious way the approval of a Soviet for that country is an approval of the proclamations and the procedure of the Moscow International. Then further, you assume that the Moscow International is declaring for the overthrow of all governments. In other words that it is a theory and part of the program of the Soviets to overthrow the government of the United States. That is far afield, and with all due respect to the Committee, rather a ludicrous assumption.

In other words, it must appear to you that if your national convention endorses a program in another country, say in Ireland, a form of government you are not by that necessarily endorsing an international conference. If such was permitted and took place in Dublin, and if you were, you would not thereby properly hold any person here responsible for what the conferences might do in Dublin, because they approve a form of government of Dublin, or because they regard the Irish republic as a perfectly national and proper institution, or digress of Lodigres or Jim O'Connell.

Now, you can see from that the point I make. Let us assume that it is true that they endorse the Soviet. You would have no reason to infer that by that they were endorsing the International, and then in turn that the International stood for violence in the United States; and that in turn that these members were standing in support of that, and do not forget that long after the Socialist party of the United States and of every other country had stood for the right of Russia, that its own future unimpeached and unassailed these members sat in this House as representatives of their district without a challenge and without question. The answer to that may be that you did not know at that time what was going on in Russia, and in reply to that I would suggest that in view of recent facts and activities that a great many people a few months ago did not know what was going on there, but what we are finding out more day to day is bringing a reconciliation and understanding. And, let me say that it may not be many months before the friendship, if any exists, between a great powerful country in Europe and Asia, if it exists between the United States and that country may be largely attributed to the fact that the men, and men like those on trial were the ones when in that country's hour of need spoke a kindly word for her future.

I pass on now to section 5, that is, your clause 2. Section 5, article 2 of the Constitution:

"In all my political actions while a member of the Socialist Party I agree to be guided by the Constitution and the platform of that party."

That is an offense against them. Now, in the first place, this government is one of political parties. It must be so from its very nature. You cannot conceive of a system of governmental representation that is not a government of parties.

You have issues where groups become antagonistic—free traders, protectionists, prohibitionists and wets and you form in your groups and your parties and men who come into legislative halls who really come in with a purpose come in with a group and they act as a group and they represent a party in the interests of that party and insofar as they say we represent all the people in the district, they mean that in their minds the interests of those they represent must of necessity be the interests of all in the district.

You have in your ward, you have in your State, you have your Democrats, you have your Republicans, you have your prohibitionists; they meet here. You start out the formation of your committees; your dominant party dominates every committee; it forms its majority. Theoretically you may say that you represent every one in the district, but if you did you never manifest it by voting for republicans on there or in control at any time of a committee. The point I make is that you assume, we all assume if we are a legislative body, that the interests of all in the district are by us represented by the party with which we are affiliated. You have your laws providing for party organization, the primary vote, the method of caucusing, the caucuses of the Democrats and Republicans exist in this State, secretly, some openly, and you nominate for your primaries.

The Socialist caucus, they pay dues and have a permanent organization, according to your charge. Does the fact that men have a permanent dues-paying organization form a qualifying differentiation from an organization that is not dues-paying and that may be merely a voluntary organization where you are paying monthly or yearly dues?

This clause that you have recited here that the Socialists agree to be guided by the constitution and the platform of a party, strange indeed that it is proclaimed publicly to be an offense that a man who abides by, believes in and attempts as a legislator to carry out the platform of his party which is his solemn pledge to his constituents and upon which his constituents repose their trust by casting their ballots.

We know that you Democrats and Republicans, repudiating your caucus; that you Democrats and Republicans repudiating your unit rule, very quickly are brushed aside, because after all, your power and strength exists in your organization in the House and out. You compromise your common differences and you

pledge yourselves to the organization and the organization, in turn, to its platform.

Surely, you cannot assume that these men, if found guilty of keeping faith with their platform, that that constitutes a qualification or a circumstance which shows a want of the necessary qualifications and excludes them on the theory of wrong — an irresponsible power. But in connection with that on the formation of your parties, I might call your attention to your own election law, article 2, section 7:

“Enrolled voters. I am in general sympathy with the principles of the party which I have designated by my mark hereunder. It is my intention to support generally at the next general election, State or national, the nominee of such party for State or national office. I have not participated in the primaries of any other party since last January. Nominations for public office are made by petition of enrolled voters.”

So you recognize the fact of party divisions, and party purposes. Why, it was only yesterday that one of the gentlemen here, Mr. Stanchfield here, called attention to the fact that Mr. Goldberg, of New York, and Mr. O'Hare, of Queens, were appointed at the instance of the organization of the counties from which they came. We do not question the propriety of that — it is necessary in an organized form — but whether it is the county of Queens organization, whether it is a Tammany or Iroquois or Jackson Club, or ward organization, it is a party organization; and you know very well, all of you, and I know it, that we demand party feeling and we accept party decrees and then that represents again its power in making its public declarations and its platforms, which are pledges to the voters. We submit, gentlemen, we have a right to form an organization and to have one that exists, and as the men come into this chamber, they will not regard the entrance here as a justification for refusing to act any longer as real representatives and servants of those who have sent them here. I can as a voter, have a right to say: “These are my opinions. There is your platform. I send you, by my vote, into the Legislative sanctuary to speak for me.” That carries with it the right to say: “In my society personally, or in my organization, I have a right to repudiate you the moment

you break faith with me." And it is a splendid thing that organizations do exist and that men do keep their faith for some period of time.

Passing on from that to No. 4: "Suspension or expulsion of members for refusing to carry out the instructions from dues paying organizations." I would call your attention to the right that anyone has the privilege to disassociate himself with persons who are not in accordance with his theory. We organize, we will assume, a Prohibition organization. We elected the man pledged to prohibition, pledged perhaps by an obligation to the organization, or perhaps by a referendum vote in which only a majority have registered their views, as frequently happens on referendum votes — the majority of the people do not vote — and the man they have elected refuses to keep that faith. Would you not say you have the right to expel him? You say: "Yes, we have a right to select our company, and we reject you as a future member and participant in our affairs." Elected to vote for free trade and you vote for protection? Do they welcome you in the organization? Do they say: "Gentlemen, you have a right to vote for protection because you represent everyone in the district?" Not at all. You let a man from the Democratic organization violate the principles and the essential pledges of his platform — not those portions which are usually put in as fringe — and if he violates those, where does he go? He would be fired out, would he not? And what is the difference between you and us in this? We do fire them out if they do not keep faith. I doubt not that you do it in clubs; perhaps it is not so open. Our conspiracy is so open that some eminent counsel cannot see it and they are digging into the basement for the facts which are in broad daylight.

"Said instructions may be given by an executive committee, both wholly or in part, composed of alien enemies."

Let me say that persons, by making a declaration of intention to become citizens, in many of our States can vote. You must remember this platform is adopted for all of the States of the United States. It is adopted for the purpose of its organization in Florida, Alaska, New York, California or any other State. In some States a person can vote upon declaring their intention to become a citizen according to the Constitution of some of those States. So it is indeed remote where an instance would happen where alien enemies would comprise an executive committee.

They have in any organization Democrats and Republicans, persons who are non-voters; but that is not the real gist of the fault of that statement. You say: "Such instructions may be given by the Executive Committee, both wholly or in part composed of aliens;" not that it exists to-day; not that it has ever existed. No claim by you that foreign born persons, alien enemies, have ever dominated, even the most local committee. But you say: "Some time in the future it may happen that you would have a Committee who would instruct the men here. This then becomes, on that clause, a mayhap persecution; in other words, a chance. There is no indication that it has ever happened, but the bare chance that at some time in the future some citizens who think as much of the possibilities of this country as those who are wrapping themselves in a cloak of self-righteousness, those people have the future of this country as much at heart as the people who would judge them. Are not people of alien, foreign birth, with leanings and sympathies with countries antagonistic to us to control their organization? You cannot assume it by the men you have met in the movement or those who have been sent into your Assembly. But think of an offense as solemn as this being charged in the terms that it may happen, although no evidence from the past 25 or 50 years of any probability! It shows, gentlemen, that our war hatred and anger is not so dissipated that we have, at the close of the war, been turning it away from the Imperial German Government and the Austrian Government; we turn the hate away from over there and we have been turning it against ourselves. It is an energy that has not waned; it is still in power and strong and it must go somewhere so it gets into the column of what may happen some time.

The next provision, "The National Convention War Proclamation" and I read from that. This that I have mentioned before I think on a fair interpretation will be found fully inadequate to charge an offense with the most intentment that can possibly be interpreted from their test and the presumption against the pleader travels in proceedings of this kind the same as in court. "The National Convention War Proclamation, there were members of the party which declared the only struggle which would justify taking up arms in the clash is the class struggle against exploitation and political oppression and particularly against the snare and delusion and so-called defensive warfare and against the false doctrine of national patriotism and to uphold the ideal

of international working class solidarity." Then your supplemental document, for the purpose of explaining this, reads: "And in open convention and with calculated deliberation denounce the war as criminal; its purpose capitalistic; its motive profiteering and pledged that party to oppose the war."

This country entered the war in April, 1917. The first day set for the convening of Congress was much later than the 7th of April. After the Convention of the Socialists had been called to assemble in the city of St. Louis on the 7th of April, 1917, the date for our declaration of war was advanced; that is, for the assembling of Congress was advanced and proceeded a few days. But the members and delegates met in St. Louis. They had a different theory in regard to the war than the great mass of people of this country, and let me say by way of preface that after the declaration at St. Louis of its war proclamation or proclamation and war program, Socialists sat in this assembly during 1919, during 1918, during all of the time that we were in the midst of war and that document had a living vital meaning.

The misunderstanding of the position of the party in disapproving war exists from the fact that most people have been unfamiliar with the Socialist theory in reference to it. You are charged with an offense of opposing the war. It must be patent to you in the first instance that every man in this country has a right to oppose the war before we entered, and countless thousands did. It must be equally apparent that when you are in a war someone some time must suggest its discontinuation, and to suggest its discontinuation presupposes an opposition to that war. Our traditions were fairly well fixed, we thought, but sometimes the habits of a nation we find as unstable and as weak as the habits of individuals. Our country by tradition was opposed to conscription except as states fill their quota. We had a long record congressionally of men in public and private life who opposed war. Lincoln opposed it and voted against appropriations, and Clay, and you know the record full well. Our party not only opposed it on grounds which heretofore had been regarded as legitimate humanitarian grounds but we offered an explanation as to its reasons. We rejected the headline solution of a "King's war." We believed we understood it to be the logical development of an economic system which meant that the country which was the most powerful in peace and in war could dominate the industrial relations of the world.

It was not something new and you no doubt know. National and international which has fields for debates. The party had made its declaration against war. It had opposed appropriations for arms. In all the countries where it had the strength it knew that armament meant war, and war, destruction, disease, insanity. It meant barbarism and savagery and it denounced the war as criminal. You need nothing more than to glance for a moment at the world to-day in the last three or four years to realize that criminality and infamy can never picture the destruction of humanity by so-called civilized men, and if there is any voice in the soap box, the stump, or out in the wilderness that can breathe a breath of real life, then we need to hear it now here and in every other country. This party pointed out that this was not a war to make the world safe for democracy, not that we challenged that belief and ideal in the hearts of countless thousands of men who went to the front, but that we understood the forces were not purely ethical. We knew the economic conflicts that ran all the way from London to Bombay down through Bagdad or interchanged, or interplayed, for possessions of raw materials. That we understood. We knew it would bring what it did bring outside of a working class triumphant and control.

When the war was proceeding the party, as you may recall, attempted to hold its conference in Stockholm and in other countries that men representing working classes of the world might meet and stop the frightful slaughter, but they were not committed so to assemble. They have attempted that, but did not get it. Conditions continued. We went into the war. Democracy has not come forward as self determination. Has not come into the country. We do not complain that there has not been a verification of promises, no matter how sacred that may have been made before humanity, but we insist that this party had a right to its opinion as to why we went into that war, and if it was false and misleading you have this to excuse your suppression of our press and our information during the war that success was necessary to American arms, but that gives you no right to-day, when the central powers are beaten, and to-day we should be given the opportunity thoroughly to state why we have these views, and why we have those theories.

In explanation here, you charge us in this proposition — it is opinion. Why, the Democratic party had the opinion during the war of the rebellion. If I mistake not it was Abraham Lincoln when we were in the war who suggested the return to slavery

if the seven States would come in and the slaves to be purchased back in 37 years.

When General McClellan was the Democratic candidate for the Presidency he claimed that justice, humanity, and public welfare demand that immediate efforts be made for secession of hostilities with a view to ultimate convention of the States or their peaceable means to the end that at an early practical moment peace may be restored on the basis of the Federal Union of the States; also that the direct interference of the military authorities of the United States in the recent elections held in Kentucky, Maryland, Missouri and Delaware was a shameful violation of the Constitution and the representation of such acts in the approaching election will be held as revolutionary and resisted with all the means and power under our control. No one thought of imprisoning Democrats who stood on that platform at that time. They regarded that as legitimate expressions of their convention.

We are then referred in the same clause to a criticism made of the platform with reference to patriotism. Patriotism is probably a very misunderstood term, and I judge so by the glorious method used by the profiteers in wrapping themselves in the American flag. We must all marvel at that obvious idea of patriotism. Is not the ideal of those who would think of their country as a country of art, literature, social and material progress as the most brilliant star in the galaxy of nations to be imitated, if you please, by them and at the same time to be a part of a great fraternal and civilized world participating and acting with all their countries' real patriotism? It is not the love of a machine, it is the love of the position in the universe which you hope your country to take as a great leader of human thought and achievement; and it does not consist in witch hunting, neither does it consist in fear, or that which will disturb the settled convictions of vested interests.

Here is a party stating its opinion. Do you know that these men agree with the opinion of the party? It is not even stated, nor alleged, for all we know they might have been minorities, as there are in all parties, or excepting in one part or another part of the program. The great gist of all this is that that party believed that the underground motive of war is economic, only they said on the 7th day of April, 1917, what our President said in St. Louis a couple of months ago. He said "Who are they among you who does not know that this war was commercial?"

Any man, yes, I will say any woman, yes, any child, for what he assumed two months ago any child should know, stated as their views on the 7th day of April, 1917, and it is in this platform, and it was stated there, and it was a legitimate expression of the party conviction. When you try men for party expressions, that moment you set and establish an inquisitorial method by which you spoil ideas. Our country is one where freedom of speech has always been supposed to have been sacred — from the days of Lovejoy and before views on political issues, wide and varying, that meant, life and death of the country, from cessation up to our modern programs.

When a country loses its confidence in its people, rational, to come together and discuss steps and abide by a majority, that country is already giving evidence of faithlessness in its own institutions.

We pursue a political program. We believe in the majority dictating the cause in society. We repudiate the theory that agency must come through physical effort in discord. We have clear-cut notions and theories as to how to bring things, but gentlemen, Mr. Hillquit was not making a threat when he said when you challenge representative judgment you welcome an autocracy, and when you do that the end is clear, not as a challenge, but as a prediction. You either will have an autocracy, or you will have a representative democracy. Our form of government is one of representative democracy, and when the gentlemen speaks of disloyalty, let me say that disloyalty is not disaffection, or bond of affection. Disloyalty is adherence to the enemy country, and belief and temperament. An ideal no one has ever suggested with brains that the Socialist loves Kaiserism or Czarism or Hapsburg.

So the question of disloyalty is not an issue. There is an issue along the subject of democracy, and that is real patriotism, where love of country the real belief, Mr. Chairman, on your part and every man in this Assembly that you are not afraid of a minority and that you will accept, even though regretfully, the decrees of a majority in an amendment that was to accept or reject this man because of his opinion, we lift the thirteenth century and ninth century and plant it here in the twentieth. All intellectual research and enlightenment was smothered and coralled and buried for five hundred years with the exception of a depressed fight by a few Savonarolas, because they had the power to crush the crank and the men they did not believe with and how long human nature

struggled against it. We think it is impossible now, because we are so enlightened. My friends, we have no guarantee of that at all. We know progress must continue or retrogression. Political parties have advanced views, or different views, if you please, which must be reckoned with, and you cannot have a pink tea society in the United States where you are all swapping a similar brand. You must have your differences and you recognize them.

Oh, but they say, in this instance they were not patriotic; they opposed the war. That is your answer there. I answer that that is not an offense either in Congress or out of Congress, and it certainly is not an offense on the part of these men. And let us not forget this one ethical conception. The first man and officer killed in the American armies was a man who did not believe in this war and was a Socialist in Rockford, Illinois. I could name others, but as he happened to be the first officer, I mentioned it. It is surely as great a type morally, intellectually and socially; that man is a greater type and he possesses those qualities in a greater degree who can say, "I don't believe in this course of action; I accept the decrees of the majority; I fight for the rules and the laws made by the majority; I accept the war in action created and made by a majority; I act loyally, but I disagree with you," is, I say, a higher type of man than the man who can only submit to authority when he agrees with it. And the countless thousands of Socialists in your army in this country prove our contention that you may disagree violently with the policy and accept it and assist in carrying it out, and that is not strange to the armies of Europe whether it is France or England. In England did not Ramsay McDonald, Thomas Snowden and Curtin oppose the war? In France and Italy they opposed the war; in Germany they opposed the war. The people of Europe are able to distinguish between action which is disloyal and opinions which do not agree with the majority; or, if you please, a dominant and overwhelming minority.

Those are the distinctions we must learn and I submit, Mr. Chairman, in this case that you have not the basis in this charge properly for the purpose of examining the qualifications of these men, because in their opinion they differed from those who favored our entrance into the war.

My attention has been called, which I will quote in conclusion, that another thing that Abraham Lincoln in his first inaugural address said:

"If by mere force of numbers a majority should deprive a minority of a clearly rendered Constitutional right, it might in a moral view justify revolution, certainly would if such a right were a vital one."

We must proceed on the theory of hearing all sides in legislative bodies and outside. We cannot be the man that Lincoln describes when he said, "A coward could not hear both sides." We must hear all.

Your last charge I shall refer to, and it is No. 7. It is the only charge which I consider has any merits. You say: "The Socialist party of America did urge its members to refrain from taking part in any way, shape or manner in the war and did affirmatively urge them to refuse to engage even in the production of munitions of war and other necessities used in the prosecution of the said war, and did thereby stamp the said party and all of its members with an inimical attitude to the best interests of the United States and the State of New York.

That is a fairly definite statement of what the framers of this may have considered to be the truth. That is an issue we are quite willing to meet and I think it will be an issue that they will regret they ever suggested, for we are very certain and positive no proof, no act of the declarations of the party, either in its more prominent councils, or its locals will be found to verify in the slightest degree that statement.

If this party advocated and urged its members to refrain from taking part in the war in any shape or manner and did affirmatively urge them to refuse to engage even in the production of munitions of war and other necessities used in the prosecution of war and did thereby stamp the said party and all its members, and so forth, if that is proven against the party and these men are members of it, we will have nothing to say except leave these chambers in humiliation. Those of us who know the record of the party are only induced to smile at so unfortunate a statement growing out of such inadequate information.

The other clauses that you have deal with opinions, deal with regulations, deal with theoretical opinions of the party and these parties should not be placed on trial, because, admitting all of them to be true, they would constitute conditions which might exist consistent with all the requisite qualifications of a man elected to a representative body in a country where liberty exists and the soul of America still throbs.

Mr. Littleton.— Mr. Chairman.

The Chairman.— Mr. Littleton. If there is any person present who desires to leave the room that is in the body of the auditorium, he can do so before Mr. Littleton commences speaking.

Mr. Littleton.— I would be content, Mr. Chairman, to leave unchallenged the specific criticisms made by Mr. Stedman of the specific charges or allegations which are in the resolution originally adopted and in the statement made by the Chair, were it not for the fact that from the inception of these motions up to the present time, the discussion has taken a very wide range, very much beyond what at first blush at least would have seemed to have been the logical limitations of it.

Mr. Stedman, who has just concluded his argument, has not contented himself with the mere discussion of the sufficiency of the allegations or the charges or the statements affecting the five Assemblymen, but in addition to that has gone far afield into the range of evidence, opinion, representation as to world conditions, discussion of political philosophies and of new conditions as they have been established on the other side of the ocean. I cannot quarrel with him for it. Indeed, it may be better now to have it than at another time.

My temptation, therefore, to reply is partly induced or created by the fact that the discussion was not confined to the merit of the language and meaning of the language involved in the resolution originally adopted.

Mr. Chairman and gentlemen of the Committee: The representation with reference to what these five men did, and what they profess, and what they engaged to do, sits out as plainly as anything can stand out that they gave their allegiance wholly and solely to an alien and invisible empire known as the Internationale.

It stands out that they are the citizens not in reality of the country which sustains and maintains them, but they are citizens of this invisible empire which projects itself as a revolutionary force into every country, menacing its institutions and threatening its overthrow. Their allegiance, before they ever enter upon the threshold of this chamber, was given to this empire which masquerades at one time with the softness of parliamentary reform and which declares itself in favor of revolution with force, according to the place and time where it may so declare.

It is to that alien state, people of alien races — pledged to the destruction of this government and its institutions — that the charges say that these men belong to and act with. It is not a geographical state, Mr. Chairman. It cannot be bounded by the oceans or the seas. It cannot be bounded by territories. It cannot be bounded by the landmarks of history; but it is an invisible empire, using at one time the pretense of 'persuasion, and at another time the threat of force or violence, according as the law of the country permits it to do so, or as it may escape the vigilance of the laws. It does it in churches; it does it in public forums; yet unblushingly does it in legislative assemblies; and wherever the challenge is made it escapes by declaring that it means the force of the ballot. Having used the violent words that mean revolution they declare the revolution was merely a revolution brought about by persuasion.

That is the alien state which, before the five members had ever entered into this chamber, they had pledged their fortune and honor and allegiance; and that alien state is the invisible empire of revolutionary force, thrusting itself into the bosom of this constitutional republic and daring to overthrow this government, embodied, as it is, in the organic Constitution of the country; doing it by force if necessary; perhaps by peace, if possible. That is the program that is charged, Mr. Chairman. It is the Bolshevik program, a wild speculation. And it is done, as has been suggested, to determine, in parliamentary bodies and public utterances, the forces that lie behind, to which they do not hesitate to pledge their solidarity. Said Mr. Stedman: "May we not express our sympathy with Russia? May we not pass a resolution in sympathy with the downtrodden of Russia? That is not what the charge means and that is not what the charge says. Nobody is more gifted to see or more experienced to understand the meaning of that charge than Mr. Stedman is. The charge is the charge of solidarity with the Russian program. If the evidence is offered, which I may not hear — although perhaps I may, in view of the wide range of discussion — if the evidence should be offered as to what was the program of Lenine and Trotsky — what is the program of Lenine and Trotsky — Mr. Stedman says that you do not hear Socialists pledging their allegiance to kaisers or men of that type, or autocrats. No! But you have their solemn declaration in convention assembled that they pledged themselves to solidarity with the Soviet government of Russia and the revolution.

Perhaps at a later day in this proceeding we shall ascertain the specific program to which they pledged themselves, to the program of Mr. Lenine and Mr. Trotsky that not to reform Russia! that is a misconception and a misdirection. It is not that Lenine and Trotsky are trying to reform Russia or change Russia. It is because Lenine and Trotsky, acting through these agencies, are proposing the installation of the same kind of government in constitutional America that they have inaugurated in Russia; and these are the agents and the instructors, according to the charge, to carry out that program.

Some to do it in their parliamentary bodies, others to do it in debates in halls, others to do it by writing books, others to do it by proclamation and manifesto, and still others to do it when the time shall come to strike, by force, as has been promised by the leaders of that particular party. It is quite a different thing from expressing your sympathy in a convention for downtrodden Russia. It is a little different program, Mr. Chairman, and the evidence in this case will disclose that these members in conjunction with their party have tied themselves irrevocably to the program, and they use the word "program" of Mr. Lenine and Mr. Trotsky, and what they have inaugurated in Europe. Let us be patient and see what Mr. Lenine and Mr. Trotsky stand for as a method of governing in Russia and in every other country, including this, and see what these gentlemen are endeavoring to further as a part of the program of Mr. Lenine and Mr. Trotsky.

So that charge involves, I should say, a grave question as to whether these men pledged to an alien empire to carry out an alien policy and to do it masquerading as a political party, can be put upon trial or upon a hearing or investigation in a legislative Assembly, and see whether they shall be a member of that Assembly and can take the oath of office.

Mr. Chairman, this is the proper place, and surely this is the suitable environment to remind you and your associates and the other members of this body present, that ours is a government of constitutional liberty, ours is a definitive creed, established by a definitive instrument; ours is not Italian liberty, ours is not French liberty, ours is not English liberty, ours is not Russian liberty, ours is not Slavish liberty, ours is not Asiatic liberty, ours is constitutional liberty, devised by the finest instrument ever devised by the wit and ingenuity and wisdom of men.

Ours is a government, a constitutional republic, in the center of whose crown is the jewel of the Constitution.

Before that Constitution was adopted, Mr. Chairman, when the Revolutionary fathers gathered at the table to write the great proclamation of the rights of man, they said we hold these truths to be self-evident, that all men are created equal, and endowed by their Creator with certain inalienable rights, among which are life, liberty and the pursuit of happiness; that to secure these rights governments are instituted amongst men, deriving their just powers from the consent of the governed.

That was the political proclamation that set on fire the political liberty of the world, rocked every throne and kingdom by the declaration of the rights of man. That declaration declared as the object of the revolution that the three great rights, life, liberty and the pursuit of happiness, were the object of the government, and that the means and the agency by which that object was to be made secure was the government, and that that government would probably be best to secure those rights which was a government resting upon the consent of the governed. These were declared to be inalienable rights. By that, Mr. Chairman, rights that could not be alienated, rights that existed before there was a government, rights that would continue to exist after all governments had ceased to be.

We have come to know in constitutional form what the three great rights are. My life to be lived with regard to the rights of my fellows as I see fit to live it; my liberty to move and to act, to live, to work, to rest, to sing, to sleep, to eat — my liberty — not the liberty to be directed by a Soviet Republic or a taskmaster of Lenine and Trotzky — my pursuit of happiness, that I may go into the fruitful valleys of my country and follow the furrow, or I may go to the cities with its teeming millions, or I may go whithersoever I will, moved by the individual ambition and genius of an American unrestrained and unchecked, unhindered by any power or agency that dares to number me, and make me one of a mass that has been governmentized.

Those are the three great things that are the vital essentials of the American government. They were organized, Mr. Chairman, into a Constitution. That ideal thus proclaimed became the organic law of the land, and the agencies to protect it were set up, and throughout this more than 130 years every energy of the American has been bent towards seeing to it that that gift from the fathers, that heritage from the men who planned this country, should remain unhampered and pass on to those who shall come after us. That is the definitive constitutional government of this

country. That is what you say here in this chamber when you take the oath of office that you will support. That is the government which the Constitution requires that every member of every Assembly in every State shall take the oath to support.

What is more, Mr. Chairman, that is the Constitution which, presiding over a new country a little more than a century, and flinging open its doors to the people of other lands, and with the fruitful and multiplying agencies which it set on foot, built here a Republic of more than one hundred million of people in the shortest period of time in all the miracle of the ages.

What is more, Mr. Chairman, we never waged a war of conquest; we never sought to extend our dominion over other peoples; we have never engaged in the conflicts of the world except to defend our honor and preserve our ideals.

Those ideals are the embodiment of the Constitution which these men ought to have been able to take the oath and support. No alien, invisible empire, having one corner of it resting in the heart of Soviet Russia, another corner of it resting upon the shoulders of the Spartacides in Germany, and another resting somewhere else to which you swore allegiance, but to this country and this standard and no other country or standard. That is the ideal for which we take the oath and undertake to support.

Now, with that situation, here is an Assembly organized under the ideals of that country and under its constitution and the question here is, Mr. Chairman, can that Assembly inquire into whether or not five of its members are disloyal to the country, have foresworn themselves and given their allegiance to an alien and an invisible empire and placed themselves in the hands of a master who can withdraw them from this Assembly when he chooses. Can such a deliberative body as this make that inquiry and finding the fact out, can it expel that agency from this body before the poison has contaminated the system?

And yet the challenge is made and the excuse is made that the declaration in April, 1917, against this country and calling the war criminal, the motive profiteering, and calling it a war which was conducted for the benefit of the capitalist, and calling upon everybody to resist every agency of the war by every possible means, when my son and yours were at the front, secretly acting and giving aid and comfort to the enemy, when we were battling for the ideals of our fathers, and pledging themselves to thwart the agents of the Republic for the preservation of liberty, in dark

places and in secret ways, and writing it down unblushingly as their creed, that they dare get in front of the ideals of a real Republic and then claim the right to sit unblushingly in the councils of that country and dictate its laws.

Mr. Hillquit said yesterday what may be treason today may be the law of the land tomorrow. It will be the law tomorrow, if you let traitors write the law. (Applause.)

The Chairman.— The Chairman will be obliged to exclude the spectators if there is another outburst of this character. Proceed.

Mr. Littleton.— Now, Mr. Chairman, something has been said with reference to the vagueness of the charge contained in the resolution about what these members pledged themselves to do before they came here. The charge says that the Constitution, section 13, subdivision A, of the State Constitution of the Socialist party of the State of New York provides:

“A member may be expelled from the party or may be suspended for a period not exceeding one year for the following offenses: For failing or refusing when elected to public office to abide and carry out such instructions as he may have received from the dues paying organization, or as prescribed by the state or national Constitution.”

It has been said already, Mr. Chairman, and perhaps I need not again recount it, but I shall allude to it in passing, the dues paying members of the organization is a simple phrase, easily understood. They may be aliens, they may not be; they can be aliens. They may be minors, they may not be minors; they can be minors. The fact as a fact is not set forth in the charge. The point of it is that these aliens, possible aliens, who are the dues paying members of the organizations, thus ready and doubtless willing instruments in the hands of alien governments, can be the sole constituency of these five members by the limitations of that provision in the Constitution. If they must go when the alien, possible alien, dues paying members say Go, and if they must come when the possible alien dues paying members say Come, and if they must do that without regard to the obligations which they take when they enter this Assembly, then I think I am justified in the strongest language in saying they have foresworn their allegiance to the country whose councils they propose to sit in by giving their allegiance to a group of aliens. In other words, they are the hired agent of a group of aliens, come to carry out

the plans of the higher agents as far as they can in the councils of a free government, under a Constitution which commands them to take the oath to support it. It is not said here, nor is it contended that it is so said, that these were alien dues paying members, because that isn't charged in the language of the resolution, but the fact is, and the point I make, that all of this superficial patter about representative government finding its utterance in I think the misguided if judicial phrase of such distinguished gentlemen as Mr. Hughes, and reaching a more vocal and violent point in the declaration of counsel for the five Assemblymen, with his utterance that we are destroying representative government, is a perfect mockery when applied to the facts of this particular charge.

If it be true, Mr. Chairman, that the members under investigation have given their unqualified allegiance and their absolute obligation to obey the dictates of the dues paying members of their organization, who may be aliens, and to do it against any and all of the obligations which the government may impose, and to do it despite whatever may be demanded by the minority of the people in their districts, I say to make a defense of that as a policy of representative government is to defend constructive treason, if not actual.

Do you imagine for a moment, Mr. Chairman, that it would ever be contended on a question of representative government that you could come here, for instance, with a written pledge to a certain class of people in your community, that when they got ready and were disappointed in your fidelity to them, they could file your resignation with the public authorities. And you promised to give that to them in writing when you signed and became a member of their organization.

Suppose it could be proven that members in this body had given their obligation in writing to the bankers of New York city that when the bankers became dissatisfied with their conduct in the Assembly, they could file their resignations and take them out of the Assembly, and it were thus proven — the capitalistic class, if you please — the bankers or any other class of business men, having a Constitution, if you please, which commanded its representative when he entered and made his application and became a member, he obliged himself thus to act on pains and penalties of expulsion from the organization — would anybody doubt that such a member coming here under such conditions, the facts having

been made clear, would be expelled from this body? Could anybody doubt the wisdom or the propriety, not merely the power, of such a proceeding?

And yet, Mr. Chairman, I repeat it, this charge involves the statement, and the evidence will be forthcoming upon that question, that these gentlemen gave the pledge when they joined the organization over their signatures that they would file their resignations before they came to this body, and that those resignations should be filed with the public authorities whenever in the judgment of the dues paying members, their master, it was necessary to do so, and they promised that they would give that resignation in writing to their dues paying masters, the possible aliens back of them in this case. And that is the glorious representative government on behalf of which the bar associations of the country have been passing resolutions. That is the representative government about which we have heard so much, Mr. Chairman. Representative government. There never was before such a hard agency sent anywhere to do the bidding of possible aliens as that program outlines. That is the charge in the implications of the charge involved in that particular part of the resolution.

Now, Mr. Chairman, it has been adverted to here and elsewhere that somehow, in some way you must prove that a man has been guilty of a crime. In the first place I say that if the charges in this particular matter are sustained, and that is for you to say after you have heard all the evidence, if these men have advocated the overthrow of this government by force and by violence, and that is the charge, I say it is easy enough to locate the criminality of that conduct so far as the criminality may be the subject of consideration for a deliberative body of this country of which they are members. Somehow gentlemen have gone astray on the theory that you must come here with a record of conviction. The suggestion has been made, go to the courts, get your record of conviction and then come to us. No such rule ever has been required of deliberative bodies, of congresses, of assemblies, or legislatures.

I read to you yesterday a word from the report of Mr. Adams and his committee in the celebrated case of Smith. I want to read one more paragraph from that. My friend, Mr. Roe, is absent, I believe. He said I didn't state that Mr. Smith was not expelled. It was not intentional. I didn't tell you Mr. Smith was not expelled, but I will tell you now that Mr. Smith had the

great satisfaction of having 19 votes cast against him and 10 for him and he missed it by a hair because the Constitution required a two-thirds vote in order to expel him from that body. If he gets any satisfaction out of that and if that nullifies the report of that statesman and President and Senator and distinguished man, Mr. Adams, I readily yield him that satisfaction.

He says in this report:

“The spirit of the constitution is perhaps in no respect more remarkable than in the solicitude in which it has manifested to secure the purity of the legislature by that of the elements of its composition. A qualification of age is made necessary for the members to insure the maturity of their judgment. A qualification of long citizenship, to insure a community of interest and affection between them and their country; a qualification of residence, to provide a sympathy between every member and the portion of the Union from which he is designated.”

And let me pause there, gentlemen, to draw the contrast between the description of what a representative shall be in general outline and the charged facts in this case, that these men come here with their resignation perhaps in the hands of aliens, to be fired, perhaps, at the aliens' will.

Let me proceed with this:

“And to guard, so far as regulation can guard, against every bias of personal interest and every hazard of interfering duties, it has made every member of congress ineligible to office and every officer of the Union incapable of holding a seat in congress. And after all this anxious solicitude, it has not authorized the constituent body in any case to recall the representative; it has not subjected him to removal by impeachment.”

And so with members of the Legislature and other legislative bodies. They are not subject to removal on charges after hearing, as such cases go. See what he says further:

“And when the darling of the peoples' choice has become their foe, can it enter the mind of a reasonable man that the sanctuary of their legislation must remain polluted with his presence until a court of law, with its pace of snail, can ascertain whether his crime was committed on the right or the left bank of the river?”

This is the boldest statement of one of the ablest of all the statesmen of America of the great differentiation of the powers of a legislative body to get out of its body those who are unworthy because of their disloyalty to their country or for any other reason, and the courts of law, which I judge he meant by the "pace of snail," as he says, before they can determine, as in the case of a question of homicide, whether the crime was committed on one bank of the river or the other.

Let me finish this, because I think of nothing which completes the charge here made so well:

"As to whether a juncture of difference can be found between the words of the charge and the words of the proof. Whether the witnesses of his guilt should or could not be heard by his jury, and whether he was punishable because present of no overt act, of public justice, because he only contrived a purpose. Is it conceivable that a traitor to that country which has allotted him with favors, guilty to the common understanding of all mankind, should be suffered to return no question to that post of honor and confidence, where, in the zenith of his good fame, he had been placed by esteem of the public of his countrymen, in defiance of their wishes, in mockery of their fears, surrounded by public indignation, but inaccessible, could reveal and pursue the purpose of treason in the hearts of its national counsel."

This man had been indicted, and the indictment had been dismissed, and he had been engaged, and he was charged, that he attempted to debauch the army of the United States.

What is the charge in the 1917 platform here, that the body to which they belong, and to which they have sworn a distinct allegiance, declared that the war in this country, waged in defense of constitutional government and the liberties of mankind was a crime. It was charged against Smith that he was plotting the disunion in this country, and to conspire with others to do so. What is the charge here? That these men belonging to the invisible empire of the International, whose agents may be violent or peaceable, according as the law allowed, and according as they may escape, are here acting as agents of Lenine and Trotsky, not to establish a Soviet republic under the rotten ruins of an infamous autocracy, but to establish a Soviet republic on the ruins of a constitution on which every man is pledged by every ounce of his blood and by that solemn vow which he registered in

Heaven when he entered on the duties of his office. That is what the charge is, Mr. Chairman. Does it seem innocuous and harmless when thus considered, Mr. Chairman? Is it the soft whisperings of this insidious and seductive and disparaging propaganda of peace which comes and talks about the white philosophy of reform, and which has behind it the red purposes of revolution? Is that the kind of thing that we are accustomed to?

Mr. Chairman, before this investigation is over, and before the waves which have been stirred, the waves of public opinion have finally subsided — I make no threat, but I make a prediction — that this country will understand that this so-called political party, masquerading as a political party, and under the guise and name of a political party, is the agent and the co-conspirator with the dark forces of this invisible empire whose object is forcible destruction of constitutional government in America. This case will reach further as time goes on, and when we come to understand that everything that embarrasses our ideals of liberty, and which we expect our children to take from us unimpaired, everything which came to us as the product of these illustrious men to whose labor and genius we owe everything we have, when we understand that this is the object of the deliberate assault of these men waged in words of peace, when compelled to, but used as violence and force when they dare to, and that is the overthrow of constitutional liberty in America. I say, that question before it is over will arouse this country. It will not be a tempest in the teapot, Mr. Chairman. It will be a question as to whether they can hypocritically masquerade as a political party, and strike hands with every agency of force and revolution, and still make simple American people understand they are not sworn enemies of their country, and ready to overthrow it. That question will yet be understood and must be understood. I say, therefore, Mr. Chairman, the charges are not innocuous, that the charges are not inadequate. I submit that these charges lay upon your conscience and upon your judgment, the discharge of the duty to your country greater than any other duty to which you have been sworn.

And it lays upon the conscience and judgment of the Legislature of this State or the Assembly the discharge of a duty greater than any duties to which they have been summoned and it invites the attention of this nation, recently making its offering upon the altar of liberty, contributing its boys, its women, and its men in a

great war that was waged deliberately in the name of absolutism for the enslavement of mankind. I say it draws our attention to the fact that if they will preserve that liberty, constitutional as it is, they must watch and wait and see and cleanse their public life of alien enemies that dare to challenge that liberty.

Mr. Chairman, something has been said about the war and about the fact that war is an awful thing. Mr. Stedman went on to picture what the war had brought, and in some sense, left-handed or otherwise, tried to justify this villianous declaration in 1917 when we were then, so to speak, crying our eyes out because we had to give up the best we had in our households. But why were we doing it? The world was rocked to its center; civilization seemed to have lost its course; the back waters of force and violence had arisen so that everything was afloat. The ancient landmarks of England, of France and of Italy and of other countries had disappeared in the vision of these back waters. Nobody knew and all you could hear and all you could think of was the mailed hand and the mailed hordes and the marching regimentals of the most commanding brutal lot of murderers that ever organized themselves into an army, and it looked, Mr. Chairman, as if this nation of ours, dedicated on this side of the ocean to liberty and to peace, it looked as if that nation might be involved in the general cataclysm and downfall of civilization. Joining hands with the others to wage that war we gave all that was good and true, and while we were doing that, these men that come now to flaunt their defiance in the face of legislative bodies and to emit their impious threats with reference to the conduct of this investigation, these men were counseling together, passing their declarations that the war was a crime, and we must sit here supine, cowardly, lenient and surrender ourselves to the invasion of the horde of men who represented the most villainous absolutism since the days of the Cæsars.

Now, then, they come as the apostles of another despotism. No longer is it the despotism of the crown and the court with its richness and glory. No longer is it the paranoia of kings and the emptiness of their allies and their war parties. The despotism that comes now that is riding astride the invisible empire of forces on which these gentlemen expect to ride into public service in this country, that is no longer a court or a crown or a Potsdam or San Souci or hereditary monarchy or a king strutting proudly in the thought that he had some inherited right to rule.

It is a new despotism, Mr. Chairman; it is a new force; it is the despotism which this evidence will show is the despotism of oligarchy or the mob instead of the despotism of the kings. It was against the despotism and the despotism of the king that our constitutional liberties were established. Our fathers said, "a plague on your house, whether the power shall arise from below by those who attempt to enslave the minority or the majority of the country by compacted force, or whether it shall be claimed to have come from above." That intolerable condition of the heredity of kings, wherever it comes from, it was the guarantee of our fathers; it is the blessings of our institutions; it is the finest attribute of government of any nation since the world began, that we are guaranteed against that invasion of force and the destruction of our liberties by the Constitution of the country. And these very men pretend, Mr. Chairman, that they took the oath upon their lips to support that Constitution, when we will show that by everything they have said, and they have said some things; by everything they have pledged, and they have pledged some things; by everything they have acted, and they have acted some things; and by everything they have done, they are in league with the forces of dishonor and violence, which are pledged to the destruction of that country which you and I and every loyal American revere.

Now, Mr. Chairman, I say that the charges are complete and sufficient to answer every purpose for a Legislative body to find out whether these men are entitled to sit in it. I say that the charge is brought under the amplest provisions of the law and within the region of justifiable and extensive precedent. I say the whole matter is a question as to whether we come to grips now and whether what we say is true or not and let everybody answer freely and to the end that justice may be done.

The Chairman.—The proceeding will take a recess until four o'clock sharp. Just until four o'clock and then we will take up the argument again.

Whereupon the committee took a recess for fifteen minutes at 3:45 P. M.

AFTER RECESS

Mr. Hillquit.— Mr. Chairman, before my associate, Mr. Stedman, takes up the reply to the arguments made by Mr. Littleton, I desire to make a very brief statement in the nature of a personal statement bearing on a reference made by Mr. Littleton to something I said yesterday. I think it is important to have it rectified. Mr. Littleton quoted me as having said yesterday that what is treason to-day may become the law of the land to-morrow. He added, very eloquently and effectively: "It will become the law of the land if the traitors will be allowed to violate the law," with the inference that it is the duty of this committee, or this Assembly, to see to it that those whom you regard as traitors shall not be given a part in the writing of the law of this State; and it was this statement of all statements which invoked applause in this House to the everlasting shame of those who participated in the demonstration for years and years to come; for I maintain, Mr. Chairman and gentlemen, that there was no more reactionary, no more un-American statement ever made in a representative Assembly than this statement made by Mr. Littleton.

Mr. Littleton.— Is that a correction of my statement?

Mr. Hillquit.— It was.

Mr. Littleton.— I want to know if I made any misstatement of your statement. Did I not quote you correctly?

Mr. Hillquit.— You have absolutely misconstrued its spirit. Mr. Littleton, you may consider that as you please. You have drawn conclusions. I have stated just as you quoted me.

Mr. Littleton.—Mr. Chairman, I am not going to have any statement on this record as to whether I stated the truth or not, any question as to whether I stated the truth or not.

Mr. Hillquit.— I admit, Mr. Littleton, that you have quoted me absolutely correctly. (Applause.) I say further, Mr. Chairman, that I have quoted Mr. Littleton absolutely correctly —

Mr. Littleton.— I did not say you had not quoted me correctly.

Mr. Hillquit.— I say further that having correctly quoted Mr. Littleton.— I say further that this really brings up the entire crux of our contention in this case. What Mr. Littleton assumes to do, or wants your Committee to do, is to construe yourselves

as to treason, and to prohibit your fellow members from describing it, because you so construe it as treason.

Now, I hold that every progress made by human society was progress along this direction of changing views, or elevating pursuit. That sounds traitorous, one day to expel the theories, the other day you say that this is right. The right to utter remarks which to the majority may seem the principle, is a sacred constitutional right in this country — in this State. For what I implied by my statement was that there are always initiators. There are always pioneers of new movements, new ideas. When they first utter them they shock those at whose vested interests they strike, and after a time the majority of the people come to see that the line of progress, the direction of labor, lies in that direction, and they accept it.

There was a time, I believe, when a few Americans, one, I believe, named Patrick Henry, one Thomas Jefferson, and a few more, uttered the doctrine that this country, or these colonies, should be independent from the constituted sovereignty, England. It was treason, Mr. Littleton, in those days. It was treason in the sight of all Tory statesmen and politicians. It was treason to the majority of the people, and, Mr. Littleton, if he had proceeded as you wanted to proceed, then if these men had not been allowed to have a voice in the legislative assemblies or in the councils of the nation, this glorious country, whose flag you so frequently wave, would now be an insignificant colony of England.

There was a time when a certain William Lord Garrison proclaimed the doctrine which was absolutely revolutionary, absolutely treasonable in those days. The doctrine of depriving a substantial class of the property, of the sacred property in slaves. It was treason, and they were called traitors. There were very eloquent attorneys for the vested interests in those days also, and if they had not been allowed a voice in our government, our institutions, if they had not been allowed to voice their traitorous policies and philosophies, chattel slavery would still disgrace this country today.

Now, we have a right to hold our opinions about the welfare of this nation and every nation, no matter how anybody else, no matter how our opponents consider our views.

We say just as those that I have mentioned preached in public times political freedom, or the imposition of slavery. We are teaching today economic freedom, emancipation of the working

class and of the whole community. It sounds treacherous and traitorous to you. Maybe it does. But it is our good right to hold those doctrines, and you are not our judges no more than we are yours.

Mr. Littleton has sketched a most eloquent picture of the war and our participation in it, and the causes for our participation and the results of the war. He is entitled to his views, but if the same Mr. Littleton had happened in absolute good faith and conscience to believe that this war would spell disaster to his country, it would have been not only his good right, but his sacred duty to proclaim it and make every effort to avoid this great disaster.

So long as there is no law, no constitutional law to stem a certain line of opinions as traitors, there is not a person in the United States, nor a group of men in the United States, no matter how exalted in station, who can accord to themselves that right and say to the humblest of all citizens, "You have no right to follow the dictates of your conscience, but you must accept our conscience as your test of loyalty."

That, gentlemen, in this one terse sentence of Mr. Littleton our differences are very definitely, very vitally determined. What we want you to do is to say and say it your own way whether or not you claim the right to dictate our political conscience or not and on that we want arguments and remember, gentlemen, at all times the Star Spangled Banner is a beautiful and inspiring hymn but it is not a legal argument in a case of such grave, tremendous and vital importance as the one presented to you.

Mr. Stedman.— Mr. Chairman.

The Chairman.— Mr. Stedman.

Mr. Stedman.— I wish first to call attention to the passage to which Mr. Littleton has referred and call attention to section 40 of the Election Law, the first four lines of the second paragraph: "Each Committee may prepare rules and regulations for the government of the party, the conduct of official primaries within political divisions, which may include the payment of dues."

The Socialist Party evidently preceded the adoption of that law in following out that policy and likewise I may call to your attention that the labor party also provides dues and constitutions similar to that adopted by the Socialists. We might also remember the man whose picture is in life's size in the Senate Chamber in this house who at one time was charged with being a free lover.

I mention that because in the specifications of charges in this case the intimation is made that the Socialists here do not believe in the family relation. I pass that by because I regard it as too trivial to reply to. I assume, perhaps, it was the notion spread in regard to the situation in Russia which even the Bar Association of the United States at Boston took seriously in its deliberations, although it was a joke of an anarchist paper in Moscow and it has since been explained and repudiated by all the reputable newspapers of the country.

But the man I refer to was charged with being a free lover; he was charged with being a traitor; he was charged with being an outlaw. That was true because when he was a young man seeing slaves sold from the block in New Orleans, he said: "By the help of God, I will strike the shackles from those men." At that time there would not have been fifty or one hundred men in a group like this who would have hissed him, but almost everyone in the room. Times change, however. If we were a little more suspicious than we are, he would be regarded as a demagogue.

After the statements that have been made, we ought to proceed to consider exactly what Mr. Littleton's argument amounts to. Taken in connection with the statements that you have power — wrong or right — in connection with his statement that we are trying these men for their affiliation with an international invisible government, or empire — I assume it is not altogether because it is international in its character — there are those persons who are still Christians who might still believe in a God who reigned in every country, and those who are not pagans who might even now, with rectitude, recognize the theory of a universal fraternity. We do not believe that being at the shrine of a church which preaches its gospel in every land necessarily involves a want of patriotism or true regard for the achievements of this country. And if that which has been taught so long at the altar and in the creed of various religions is being translated by the working class of this world into a system that would have saved the life of his boy, then I submit it ought to appeal to the candid judgment on his part, with some knowledge as to what it stands for, before it receives condemnation.

Nothing in this charge here is made charging these men with belonging to an International; but we have passed by the written charges made by your Committee.

We have reached exactly the issue that is really involved in this proceeding. They have declared to you that they are not trying

Socialism; that they are not trying a philosophy; that they are not trying a fanciful dream. No! Correct! What you are attempting to indict is the carrying of that ideal into practice and that philosophy into life. These men are not on trial. What is on trial is the coming order of society, and your charge against them is that they have a different philosophy and a different theory. You are not trying them for their dreams. You are trying them because they believe the great organized industries of this country should be owned and operated by the men who are working in those industries. You have left the specifications. Your charge is that of an international, invisible government. You are not referring to the invisible government to which Mr. Wilson addressed himself; you are not referring to the internationalism of a League of Nations; you are referring to an internationalism which, in your mind — not that it stands for force, because you find no evidence of it in this country — ten thousand crimes and three hundred murders in Chicago last year. Where are all the armies? Find in this entire document where these men propose an armed conflict. You did speak of mass action in your charge. What do you mean by that, a strike? That is mass action. A boycott, organized by all the steel industries of the United States, is mass action. This is not the act of one steel industry. It is the act of all; and whether it is mass action by the workers in laying down their tools, or mass action by a group of capitalists to close the doors against their men, it is likewise the action not of individuals but of masses. And when you speak of this international, when you speak of its purpose, you very vaguely define it under the terms of treason; you very vaguely define it under the terms of disloyalty. I say, sir, for you to state not in the blaze of lettering, of what that disloyalty or treason consists. It was not because they were opposed to war. That, you realize, is a dead issue; and if the countless thousands of millions could look up out of their graves to-day, they would approve the action of every man who was against war, with a blessing on the peacemakers, and they would know that war came not from the workers' hearts, but from those who had been thrown by chance, thrown by faith or heredity in control of the different countries of the world. They would look to those who believe in peace. We believed in it before the war — years ago — in every country. You condemn us because we do not change our faith over night. Wilson declared for neutrality. The people of this country were for peace. We did not. Our peace consisted of the

fact — if crime it is — that we held true to our faith in the storm of rage and passion and prejudice. And in a few years from now men who have been swept off their feet by frenzy and rage will look back and say that at least there were some who were in favor of preserving the best there was of modern society for future years.

We are not being tried now on those charges. We cannot misunderstand counsels' attitude that we are tried for this: our disloyalty consists of the fact that we believe in an orderly and legal, constitutional change into an industrial democracy, and what you fear is a practical proposition. What you fear is that it has the merit of utility; that it has the merit that it is coming, and you think that by speech and rhetoric and legislation it can be impeded; and it may be, but it will not be stopped.

In his argument he never met one single proposition. Did he call attention to the fact that our party declared for the Soviets? And then by argument connecting these parties up with it? On the contrary he went into an argument as to what Soviets were and Lenine was. Are you going to try Soviet Russia in this proceeding; are we to determine whether or not that was a logical ordinary natural outgrowth of conditions? And yet Mr. Littleton's argument presupposes passing judgment upon a Russian situation.

I contended in my opening that that would be logical under the statement as made and I contend that the views of a person upon the Russian situation is not a bar upon the qualification for admission to a legislative assembly. He thinks it is; he thinks it is because he feels it is international and he feels somewhere there is a secret international. If he understood and knew he would know, Mr. Chairman and gentlemen of the Committee, that the international labor bodies of this world have met time and time again in open session; their proceedings published in many languages and that they are not meeting by subtle means.

He mentioned bankers. He said supposing a man came into this session and he had a resignation in the hands of a banker. I will answer by saying if a man was elected to this House and he had his resignation in the hands of the First National Bank of New York and his constituents knew it and they elected him to carry out the will of the First National Bank of New York, it would be the duty of that man as a servant of his constituent to do it, no matter how reprehensible you or I might consider it. In other words, the man speaks for the people in his district

and what his people want they have a right to project into the Assembly through their agent and their servant. And while you may think that it is a political and economic proposition, it would be improper, but that is their right; that is their privilege; that is representative government. In a moment you take away from a district the right to send any thought they wish into an Assembly, you deny and repudiate it and accept the theory of the superman that we have a right to get together and dictate to a district in any portion of the country what is best for them not in law, but what is best for them as representatives of them. And so no matter what the district may wish it has a right to send its representative to speak for it. I don't dodge your banking proposition if it's open and known and its object and purposes, and, sir, men do go to Congress pledged to banking propositions; we don't criticize it because it is in secret, but it is much more commendable when it is in the open. We know that in legislative assemblies industries frequently are represented by men of influence and power. The only criticism we have is that it ought to be in the open. When they come into legislative bodies representing railroads, we think the name should be pasted on the desk and their constituents should know it and if they do all well and good and it is proper, whether it is franchise or no franchise. We at least are in the open and our constituents know what they are voting for and in doing that they have a right to send their men to express their views and opinions.

Mr. Littleton has not answered a single statement of fact or important inference drawn from these charges. He has left them content with the fact that today some men do not agree with the laws which prevail and that they ought to be excluded for that reason. Prohibitionists should be excluded by wets; wets by prohibitionists, and wets should exclude the others and vice versa. They don't agree; they are unpatriotic; they don't approve the law. That is the logic of his position and if a man gets up and says a man who believes in whiskey, believes in poisoning the mind, poisoning the blood, destroying the vitality, destroying the home, filling the jails in that case with demon rum and whiskey and demoralization and bribery and the grog shop, he is against our institutions; he wants to poison us with whiskey, he is inimical to society and he ought to be excluded. Why? Because we have the power and because we can determine whether it is right or wrong to exclude him because he is against our practice in advocating whiskey, poison and dope. That is the logic of my friend

carried out to ridiculous extent, perhaps, but nevertheless applicable to what he has said. It is against that we contend. We contend that these charges, except on the theory that we are to be tried because we disbelieved politically with those who are in the majority. That is his position and that we assume under the form of constitutional government is not within the province of this Committee or this Assembly.

I thank you Mr. Chairman and Gentlemen.

The Chairman.— Is there any further argument ?

Mr. Sutherland.— If I may have a moment of your time. I will not ask to make any extended comment upon the argument presented by the last speaker. His surprising and amazing candor has shortened, in my opinion, the examination of these facts. I do not know that he intended to admit that not only were these five Assemblymen pledged to vote in the Legislature of the State of New York, according to the dictates and commands of an outside organization, an alien and unseen empire, as there has been declared to be. Did he admit that, and did he admit the further allegation which has been made here, that as collateral security for the performance of that pledge these five men have filed written resignations with someone who can put them into effect by laying them in the office of the Secretary of State, if any one of these five men dared violate his pledge to this outside organization.

If we may accept those as admissions, then surely our task here has been very much shortened. We welcome the issue, sir, to try before this Committee and then the Bar of Public Opinion whether men are to sit in the lawmaking hall of this State and obey the dictates of a Committee outside under a written pledge that they will do so, no matter what those dictates may be or else be deprived of their seat.

That is a tremendous admission, sir, and we shall claim that whatever may be the nature of the outside body whose orders an Assemblyman-elect pledges himself to obey, whether that outside organization is a missionary society for the spread of the gospel or for the spread of the doctrines that are harmful and destructive of all government. Whatever that outside organization may be, sir, the making of that pledge of itself in the very nature of things disqualifies the man who makes it from sitting in this hall ; disqualifies him from taking the oath of office and sitting in this hall to legislate for all the people of this great State, according to the facts and in the light of his own reason.

That is a disqualifying fact, that of itself furnishes every reason and jurisdiction by this body to expel him when the fact becomes known, and when that pledge is made known to the Committee of the organization which, as we say here in words that no one mistakes the meaning of, when that organization to the commands of which he pledges himself is an organization seeking the overthrow by force and violence, if necessary, not of the rotten government of the Czar of Russia, but of every organized government, then God save us of the organization of the Government of the United States.

When that is it, sir, there can be no possibility of doubt about what the answer shall be. If you are American, if you are patriots, if you are responsive to your own conscience, if you dare face your own constituents, or stand before the Searcher of all Hearts, there can be only one duty under these circumstances and with these facts, and that is to vote for the expulsion of these men.

Now, sir — now, sir, we have had two days of discussion, of enlightenment, but at least we see the issues, and now, sir, let us have the facts; let us have the proof, the facts, sir, are what the people are waiting for. They have heard and read the argument. Now they want the facts. We are here. We tender the issue. We propose to prove what we have said we can prove. If they can disprove the facts, we have then a question of fact for you to determine. If they cannot disprove the facts, then all you have to do is to report that these things stand unchallenged, and no Assembly that ever came together since the American flag was first raised would ever doubt for a moment as to what its duty would be, and that duty, you and the constitutional Assembly that you represent, will perform, I venture to affirm, if the facts which are here alleged and which have been outlined shall be properly and fairly proven.

Now, let us have the opportunity, sir, to present our evidence.

Mr. Stedman.— Mr. Chairman, I was asked a question by Mr. Sutherland, whether I admitted that these persons had signed a resignation. I answer No, and, further, that we are not charged with it. He wished to know whether I admitted they were members of an unseen empire? Answer, No, and we are not charged with it. I endeavored to confine my remarks to the charges made.

The Chairman.— Is there any further discussion on this question. The Chair is inclined to the opinion that this discussion

this afternoon has gone far beyond the rules of ordinary suits or ordinary court proceedings, but we thought it wise to allow this discussion, so that the issues that were to come before this Committee would be fully understood. The very able presentation on the part of counsel hardly leaves a doubt, I think, in the minds of any of us but what you gentlemen are fully conversant with the issues that are involved. We were instructed by the Legislature to ascertain and report the qualifications and eligibility of these gentlemen to sit in the Senate of the State. The Chair is inclined to hold that the documents, resolutions, and the statements made by the Chair are sufficient to warrant the investigation of the Committee, and there, would overrule the motion made to dismiss the proceedings, with an exception. Further, the matter comes up in the nature of a demurrer and that is based on the same lines, and, in order to make the record complete, the Chair would rule that the demurrer is overruled, if you class it as a demurrer, and that the papers and proceedings on which this Committee are acting are sufficient to warrant us to proceed with the investigation. However, we desire to say again to the gentlemen who represent the Assembly, that they have the right to file such a statement as they desire to file by Thursday of this week. You can have it later if you desire.

Mr. Hillquit.— Mr. Chairman, that was Friday by agreement, but in view of the fact that as far as the pleadings are concerned they have been ruled — the statement to be filed by the Assemblymen if it is to serve any purpose would probably just as well serve the purpose at any time during this proceeding, wouldn't it?

The Chairman.— With the exception that possibly it might involve an affirmative allegation that would require some investigation on the part of gentlemen who are appearing as counsel on the part of the Committee. In that case they would probably want to know what you intend to allege in your statement. I think you should limit the time within a very reasonable time to file this statement. If you do not, you will keep raising new questions, and, necessarily, that might involve an extension of the trial.

Mr. Hillquit.— I see your point, Mr. Chairman. That would probably involve another question and that is a question as to the nature of the charges now before you, whether you consider them complete, whether you consider them a complete specification of

the charges, or whether your Committee is ready to serve us with a more detailed, specific, concrete statement of charges. On that, Mr. Chairman, and the Committee, please, we have our final and very brief motion to make, and when that is disposed of, the question of filing any papers on that side may become clearer. I will ask Mr. Block to make that motion.

The Chairman.—The record shows that the motion to dismiss on the grounds of insufficiency of the papers is denied, with an exception. I think that is shown.

Mr. Stanchfield.—Before Mr. Block begins his argument on the motion he desires to make, my colleague, Mr. Littleton, is obliged to leave and he desires to make some statement for the record.

Mr. Littleton.—Mr. Chairman and gentlemen of the Committee: Before Mr. Newton asked me to join with him and others as the representatives upon this side of the controversy, I had already been compelled to accept an assignment of a day for a trial in Michigan, what is known as the Newbury cases, there being about 135 defendants. The case must go on because it is so tumultuous in number and in issues that we cannot set it down and then put it off. We are obliged to go on on Monday, and I had already engaged to go there, and I advised the Attorney-General that I would come and serve as long as I could do so with him and his associates. I find myself under obligation to go there and to be there tomorrow, because of the fact that the work of preparing the case must be taken up, and it is a prior engagement to anything else I have. I want to make this statement on the record so that it will be known and understood, and I want to ask the Chairman to excuse me from further service at this time because I am obliged to go to that engagement.

The Chairman.—Under the statement made by Mr. Littleton, Mr. Littleton is excused temporarily and the record may so state.

Mr. Block.—At this time, Mr. Chairman, we move for the service of a written bill of particulars of the general allegations contained in the complaint or the resolution or the charges, or call it what you will. We demand a bill of particulars or a set of specifications so that we may know with particularity and exactness precisely what we will be called upon to meet as this hearing progresses. There was served, or rather, there was

passed by the Assembly a certain resolution containing certain recitals which I believe your Committee regards as charges against these five Assemblymen. It was upon this resolution that this matter was referred to your Committee, to hear and report. After that was done, and after this resolution, or copies of it, were served on these five men, and after this proceeding began yesterday morning there was injected into the proceeding a paper which bears no signature and which bears no title, but which was issued by this Committee. I would like to know at this time exactly what the nature and status of this paper is which was issued by your Committee. Is it a supplement to the complaint, is it an addition to the complaint, or is it something that entirely takes the place of the resolution? It will be necessary for me to know that so that I may more intelligently proceed with my argument of this motion, so I beg of you, Mr. Chairman, if you will, at this time, state for the record the purport and the status of this document or this paper — a two-page typewritten paper without title and without signature and without date.

The Chairman.— Mr. Block, the Chair states that your colleague, in his argument to dismiss and to demur to the papers, classed them in the nature of a complaint. We accepted his doctrine as partially true and we have overruled the motion to dismiss, holding that they were sufficient to form a ground work for this Committee to act, and, therefore, you can treat them by such name as you prefer. The papers were given to you for your information as an outline of the general trend of the case.

Mr. Block.— I take it, Mr. Chairman, that it is not for me or any of the counsel for these five men to define the status of a paper issued by the Committee. I think that is peculiarly the function of the Committee.

The Chairman.— The Chair states that we have extended every courtesy that we can to you, gentlemen, and we will continue to extend the courtesy to you, Mr. Block, and allow you to proceed with your argument along the lines which you deem best for the interest of your clients.

Mr. Block.— Upon that statement, then, I take it, I will have to regard this as part of the complaint.

The Chairman.— As you choose.

Mr. Block.— Then I will demand that we have a bill of particulars of the general allegations or new matter which are contained in this document, and which are not mentioned or authorized by the resolution of the Assembly. As you gentlemen know, as lawyers, in every legal proceeding, whether it is civil or criminal, the defendant is entitled to a bill of particulars of the general allegations in the complaint in a civil action, or in the indictment in a criminal proceeding. The charge that is made must be made definitely, accurately, precisely, so that a defendant may know what he has to meet, so that he may not be taken by surprise at any stage of the proceeding, so that he may know what evidence it will be necessary for him to muster, what witnesses to subpoena, in order properly to present his case, and I feel that we are absolutely entitled to this same right. In adopting your rules of procedure you stated that you would follow the practice which obtains in the Supreme Court of the State, and I need not remind you as lawyers that the right to a bill of particulars is quite fundamental. You have doubtless demanded it, moved for it, obtained it hundreds and hundreds of times in all kinds of proceedings.

And what more vital proceeding is there which affects not only the rights of these five individuals but the rights of their entire constituencies, nay, more, the rights of the people of the State of New York, than this proceeding now before you? I take it that it is not the purpose of this Committee to take us at any sharp advantage as the case proceeds. We will be at a disadvantage unless we know precisely with exactness what we shall be called upon to meet, and if your case is so certain, so plain as counsel has stated, you should not fear to let us know the facts in advance so we may meet them with facts if we can.

Now, in the original resolution as enacted by the Assembly, or as adopted by the Assembly, it proceeds as follows, second paragraph:

“Whereas, the Socialist party did, at its official party convention, held at the City of Chicago, Illinois, in the month of August, 1919, declare its adherence and solidarity with the revolutionary forces of Soviet Russia and did pledge itself and its members to the furtherance of the Internationale Socialist Revolution * ** *.”

We wish this bill of particulars for which we are now moving to include a definite statement of the words and acts upon which

this allegation is predicated, that the Socialist party declared its adherence to the revolutionary forces of Socialist Russia.

Also a definite exact statement of the words and acts by which this party pledged its solidarity with the revolutionary forces of Soviet Russia, and a statement of the exact words and acts and the times when they were spoken or committed, the place where they were uttered or committed, when this party did, as is alleged, pledge itself and its members to the furtherance of the Internationale Socialist Revolution.

It matters not that these five men or their counsel or some of them may have some idea or some notions of what you intend by that allegation. As lawyers you know that that is of no pertinence to a motion or obligation of this kind. The point is not what we may think that you mean but what you assert to be the facts upon which this case proceeds, and that is what we demand in this bill of particulars or specifications.

In the next paragraph:

“Whereas, by such adherence and by such declaration made by said party, the said party has endorsed the principles of the Communist International now being held at Moscow, Russia, which International is pledged to the forcible and violent overthrow of all organized governments now existing.”

With respect to that paragraph, we are entitled absolutely as a matter of a fundamental right to have that bill of particulars include a definite statement of the exact manner in which or words by which the party has endorsed the principles of the Communist International now being held at Moscow, Russia.

I think, further, we are entitled to know what is meant by the words, “Now being held.” If there is or was a Communist International being held at Moscow, Russia, at that time or at the date of this resolution we wish to have it set forth as a matter of fact; we have no knowledge of any such Communist International being held as of the date of this resolution or at the present time.

Furthermore, we are entitled to know not only in what manner the party is claimed to have endorsed the principles of the Communist International, but also a precise and exact statement of what those principles are as you allege, and as you charge us in this case.

We want to know what the principles are, as you understand them, because it is your understanding of these principles that we

shall be called upon to meet, not our understanding of them at the present time.

Furthermore, we wish to have it pointed out precisely in what way and by what words, with copies of the documents, if any there be, showing that that International is pledged to the forcible and violent overthrow of all organized governments now existing.

We demand that be pointed out with particularity and exactness. We want to know to what documents you refer. We wish to have an opportunity to investigate the correctness or incorrectness of these documents. If we find they are incorrect we wish to have an opportunity to correct the incorrectness. If they are incorrect we must know that in advance, not to be taken by surprise to-morrow or next week or the week after. At the very threshold of the trial is the time when a defendant must be apprised of what he has to meet. I may say this resolution was thrust upon you gentlemen. You are lawyers, but your Judiciary Committee did not exist at the time the Assembly passed this resolution. Doubtless, if your Committee had been consulted at the time, we would have a more loyallike document in this court at the present time, and it would not have been necessary for us to have so much of the argument which we have found it necessary to address to this body; but the Assembly in its wisdom adopted this resolution, approved as it was, and by whomever it may have been approved.

I skip the next paragraph and the one following, that in which you refer definitely to certain sections and certain articles of certain Constitutions. It will be easy for us to look those up and ascertain whether or not your charges are correct or incorrect.

As a matter of fact, in one instance, there is a substantially incorrect quotation, I may inform you at this time.

In the next paragraph, which reads as follows: "Whereas such instructions"—referring to the instructions which may be given to the dues-paying membership of the organization—"whereas such instructions may be given by an executive committee made up in whole or in part—" the certified copy reads: "alien enemies," but I assume that is a typographical error—"owing allegiance to governments or organizations inimicable to the United States and the people of the State of New York."

With respect to that paragraph we ask to have it pointed out clearly and with particularity in what form and in what Constitution—in what platform, in what Constitution of the Socialist

party, or by what paragraph in such a platform or Constitution, such an executive committee is constituted; and where it appears that such an executive committee is made up, or may be made up, of aliens or alien enemies, we wish you to point that out to us in advance.

In the next paragraph you refer to resolutions which were adopted by the National Convention of the Socialist party in St. Louis in 1917.

We wish you to refer definitely and precisely, and furnish us with a copy of the exact resolutions to which you refer, and which you intend to offer in evidence in this proceeding, and the resolutions which you charge contain a justification for taking up arms in the class struggle; that the only struggle which would justify the taking up of arms is the class struggle against political oppression, etc. We wish that definitely set forth. We must have knowledge of various resolutions, of various platforms, of various proclamations. We wish to know which of these resolutions, which of these platforms and which of these proclamations you are to present here in the course of this proceeding.

In the next paragraph:

“Whereas, the Socialist party of America did urge its members to refrain from taking part in any way, shape or manner in the war.”

We demand that you point out precisely when that was done, where that was done, by what individuals, or by what groups that was done, and by what specific language and what specific acts that was done, because, as has been said before, we absolutely deny that. We wish to know with the utmost particularity to which we are entitled in this great proceeding exactly what you have in mind and what you intend to offer against these five men, so that we may properly prepare to meet it. “Did the idea urge its members —” — we want to know in what manner and what form such urging was done and by whom; whether it was done by individuals; — we wish to know their names. If it was done by committees, we wish to know by whom they were constituted and for whom they acted, before you attempt to bind us by their acts.

And furthermore, you charged that the Socialist party did affirmatively urge them, that is, its members, to refuse to engage even in the production of munitions of war and other necessities used in the prosecution of said war.

We wish to know with the same degree of particularity when that was done, where that was done, by what individuals or groups of individuals that was done, and the exact language that was used, and the exact acts, the dates performed, to express that will. We are entitled to that. It hardly needs any argument to a committee of lawyers. Now, the next paragraph:

“Whereas, the said Louis Waldman, August Claessens, Samuel deWitt, Samuel Orr, and Charles Solomon, members of the Socialist party of America, having been elected upon the platform of the Socialist party of America, have thereby subscribed to its principles and its aims and its purposes against the organized government of the United States and the State of New York.”

We wish you to point out, gentlemen, in this bill of particulars exactly with respect to each and every one of these five men, point out in exactly what way any one or every one of those five men subscribed to any principles and state those principles in the exact language and where they were uttered and when they were uttered, and when they were published, and by whom they were published. We wish you to point that out and we wish you further to point out in exactly what way those principles to which you claim these men have subscribed are against the organized government of the United States and of the State of New York.

We wish you to point out the laws and provisions of the Constitution to which these declarations, the subscription of principle of is inimical, is hostile. We are entitled to that.

Furthermore, you charge that these men had been actively associated with and connected with an organization convicted of a violation of the Espionage Act of the United States. We wish you to point out exactly which of these men or all of them, if the case may be, as you charge, which of these men were connected with such an organization. We wish you to name the organization; we wish you to define their connection; to point out in exactly what way they are connected with that organization; and also to point out when and where that organization, naming it, was convicted under the Espionage Act of the United States.

So much for the resolution as adopted by the Assembly. I come now to the supplemental matter which was published by your Committee yesterday in the typewritten statement to which I referred in the opening of my remarks.

"The Assembly having passed a resolution," it begins, and I proceed to the sentence reading as follows: "Information came to the Assembly through various channels that the men mentioned in this proceeding were members of a party or society whose platform or principles and whose doctrines as advocated to-day called for and demanded the complete destruction of our form of government by the fomentation to industrial unrest."

That is a very general statement and I may say here, gentlemen, by way of emphasizing the need for a definite, clear, particularization of these charges, the need of that has been shown by the arguments of counsel on the other side to-day.

Mr. Littleton, in his premature summing up of an imaginary case that he has constructed before you, went very far afield from the general allegations contained in these documents. What was done here to-day in the argument of counsel may be admitted further as the hearing proceeds and you know that the purpose of this bill of particulars is not only to apprise the defendants of what they will be called upon to meet, but to limit the proof that may be given by the prosecution. So there may not be a wild, roving, roaming Lusk investigation, but that the investigation may proceed as you promised it will proceed in accordance with the rules of evidence laid down by the Supreme Court of this State or adopted in the Supreme Court of this State.

So it is absolutely necessary that this be defined. What Mr. Littleton did was also done by Judge Sutherland. It may possibly be in some way excusable at this stage of the proceedings — although I doubt it — and it would be absolutely inexcusable to allow it to continue.

You gentlemen promised in this statement, and by oral statements and by protestations in the newspapers that the five men on trial would receive fair play. In view of all that has happened from the inception of this proceeding on the 7th of January of this year, I am convinced, as are all the counsel in this case with whom I am associated that this entire proceeding is absolutely unlawful, is absolutely unconstitutional, and although you have promised fair play, I hope, I earnestly hope that you will give us the amount of fair play that is possible in a proceeding that is, from its inception, unlawful and unconstitutional.

You charge that the men mentioned were members of a party or society whose platform or principles and whose doctrines as advocated to-day called for and demanded the complete destruction of our form of government by the fomentation of industrial

unrest. We wish you to point out exactly which of these men you charge with that, and if you charge all of them we wish you to say so. We wish you to furnish us with the platform to which you refer, copies of it, of the exact sections of that platform which you had in mind when you drew this document.

The platform of principles, we wish you to set forth those principles. We wish you to set forth this doctrine, and we wish you to point out with exact particularity and with what way they call for complete destruction of the form of government in this country and in what way that platform and those doctrines and those principles foment industrial unrest. We wish that pointed out precisely, definitely and accurately as we are entitled to in an orderly legal proceeding, if this is to be such a proceeding.

Furthermore, you charge that this platform and these principles and these doctrines bring into play force and violence and ask action by the mass. We wish you to point out exactly where that is provided for in the platform in the doctrines, in the principles of the party each and every one of those items bringing into play force and violence.

We demand, we challenge you, if you will, to point it out.

You say further that these men have subscribed to and advocate such principles and are in favor of the absolute substitution of minority for majority rule. We demand that you point that out if you can point it out, if it is possible for you to find anything in the utterances of the Socialist party of the United States, of the State of New York, of any of the locals of the State of New York where that is provided for, the substitution of minority for majority rule.

You must have found it somewhere. Let us have it. Let us know exactly where it is.

We wish you to point out in what way these men have indicated by word and deed and when and where they are in hearty accord and sympathy with the Soviet government as it exists in Russia to-day, and in what way, and when and where they have declared their solidarity therewith.

Furthermore, you charge that the Socialist party, and by charging the Socialist party you charge these five members, they pledge every man in that party to oppose the war. We wish you to point when and where and by whom such a pledge was issued, was made, in what language precisely, what acts, what deeds were performed to justify such an allegation and upon which you predicate this allegation, not only to oppose the war but all

means adopted by the government for carrying on the war in every possible way.

You charge that these men, by voice and vote given publicly and in private opposed every measure intended to aid the prosecution of the war to a successful conclusion, and gave aid and comfort to the enemy by voice and vote. We demand that you point out in the case of each one of these men when he, by his voice and by his vote, when and where in public and in private, opposed every measure intended to aid the prosecution of the war, and in this connection I demand to know, when, by his vote, he did this, but by making this demand I do not wish to be misunderstood in the slightest way in having you believe that I deny that he had the right to vote in any way that he believed on any question that came upon the floor of a legislative body in the United States of America. He had the right to vote for or against any proposition whether it be war or anything else. But, I wish to know when and where and upon what questions you charge them in this manner of having voted. Also, in what way, and here the terms are used in great looseness in this complaint, that they gave aid and comfort to the enemy. We wish to know with respect to each and every one of these men in what way you charge him with having given aid and comfort to the enemy so that we may be enabled to meet each and every one of these charges. This is a most general form of allegation, as you will admit and we are entitled to the very most exact particulars of them.

It is claimed that in August, 1919, after the schemes and program of the Russian Soviet government were fully known—we wish to know exactly what schemes you have in mind when you use this language, what you intend to prove, what you intend to offer in the way of evidence of schemes and of program. We wish to have a copy of that program set forth here. We wish to know when that program was adopted, where and by whom it was adopted.

We wish you to point out also that the schemes that you have in mind and this program which you refer to and you allege that they were fully known to these five men and each and every one of them, the exact schemes and the exact program which you have in mind. We wish to know in what way you charge these men with that knowledge.

Also, the practices and the principles of the Russian Soviet government to which you refer in that paragraph. We want that exactly. What those practices are which you condemn, and

which you condemn these men for having impliedly or indirectly endorsed.

Furthermore, you say that the Socialist party of America of which these men are members, in deliberative convention declared their allegiance to and solidarity with the Russian Soviet government. We wish to know in what way you claim that the pledging of allegiance, where was that done, by whom, in what words and by what acts was it done by the Socialist party of the United States?

We wish you to point out with particular details of the following allegation that they secured their nomination and procured their election under the pretense to the people. We wish you to point out what pretenses were made by these men, each and every one of them. The language that they used. Where it was spoken. When it was spoken. We wish you to point that out so that we may be able to meet that charge if it can be pointed out.

“Pretense to the people that they were merely throwing themselves with a legally established means of political representation, whereas, in truth and in fact, it was claimed that this was done to disguise and cover up their true intent and purpose to overthrow this government, peaceably if possible, but with force if necessary.”

I wish you to point out the acts committed by these men, the words uttered by them, when they were uttered and where they were committed, as you charge, upon which you predicate this sweeping indictment that their true intent and purpose was to overthrow this government, peaceably if possible, forcibly if necessary.

Furthermore, the claim is made that “these men were with others.” With whom? We should know their names — engaged in a large and well-organized conspiracy to subvert the due administration of law and to destroy the right to hold and own private property honestly acquired. We wish you to point out as definitely as possible the details of this alleged conspiracy, which it is so easy to place upon the typewritten document of this kind, to issue to the press, to get out to the public, to poison the public mind. We want you to point out the details, if you can, to produce details to substantiate these allegations.

You charge a conspiracy to subvert the due administration of law. We want the facts; we want the conduct of these men, of their party, upon which you base this charge.

To destroy the right to hold and own private property, honestly acquired. To weaken the "family tie"—that is the old, hoary-headed chestnut that has been dangled before the public by ignorant people since time immemorial; that the Socialist Party aims to destroy the family, to weaken the family tie. We wish you to point out the various utterances and declarations of the Socialist Party of this country, or of any of its subdivisions in this country, upon which you justify that general allegation that the Socialist Party wishes to weaken the family tie.

We wish you to point out anywhere—we wish you to point the exact words—give us either the documents or the words where the Socialist Party asserts that the family tie is a seed of capitalism. We would like to be informed where such a statement has been made, where it has been officially made; where it has been made with such force that you, as lawyers, will seek to fasten the responsibility for it upon these five men who are before you in this Assembly Chamber. Point that out to us.

We wish you to point out where we have declared, or where you claim we have declared, in any of these official documents, the official acts of the party, or the acts of these individual men, that the party seeks to destroy the influence of the church and to overturn the whole fabric of constitutional government, with a view to ascertaining whether there is truth in such statements. We wish that pointed out; and where, if anywhere, in the constitution and the platform of the Socialist Party there is the slightest suggestion that the men who have come before you in this body to plead for constitutional government have the slightest intention to overturn constitutional government in this country. Point that out to us, gentlemen, if you can. Give us the bill of particulars to which we are entitled, if you can give it to us. We want it. We are entitled to it and we must have it before this proceeding can go any further in an orderly and legal manner.

The Chairman.—Is there any argument?

Mr. Stanchfield.—Shall we proceed any further this evening?

The Chairman.—I would like to dispose of this matter tonight, for this reason, that I think the statement of counsel has been so broad that it will not necessitate any further arguments—introductory arguments—in this case.

Mr. Stanchfield.—Well, Mr. Chairman, I would like to say a word in reply to Mr. Block, before any disposition is made of his motion.

The Chairman.— I know that. I would like to dispose of it tonight.

Mr. Stanchfield.— Speaking for the lawyers representing this Committee, I trust that this motion made by Mr. Block will not prevail. I should quite despair of my ability to enlighten or elucidate or instruct any of these gentlemen along the lines of Socialism. They have, each of them, given us an illustration of the doctrine of Socialism, unfettered and unrestrained. They are possessed of a most copious and sonorous and all-pervading eloquence. The language that is used in the document presented by the Chairman of this Committee is not our language and is not our phraseology. It is the language and the phraseology of the gentlemen upon the other side, and I hold in my hand a copy of the New York Call, which is the official record of the Socialist Party; and when we make the accusation that the Socialist Party is in solidarity with the Russian Soviet form of government, we make it based upon knowledge possessed by counsel upon the other side, because we affirm that the language is the language of Mr. Block and is the language of his colleague, Mr. Hillquit. I read from the manifesto that will be introduced in evidence before this Committee. The language is: "With every delegate on his feet and cheering, the national emergency convention of the Socialist Party unanimously adopted its manifesto this afternoon. It was the big moment of the convention. The document is regarded as the most revolutionary the party has even drawn up and one certain to bring back into the organization thousands of members temporarily outside of it either because their local organizations were expelled or by reason of what Lenine has called the intoxication" —

Mr. Hillquit.— Just a moment.

Mr. Stanchfield.— I have the floor.

Mr. Hillquit.— I have the right to object to anything at any time. I desire to state my objection.

The Chairman.— You have a right to.

Mr. Hillquit.— I object to the introduction of this evidence in this absolutely spectacular way. What the gentleman is trying to do is not to argue but to read what he considers evidence. If that is evidence, we should have an opportunity to object to it. We did not have any such opportunity if it is introduced in the guise of an argument. We are not responsible for any statement

of any reporter on the New York Call or elsewhere, and we object to its being read at this time and being offered in evidence.

The Chairman.— Without it is important as to furnishing these gentlemen some information, I should think that Mr. Hillquit was right about it.

Mr. Stanchfield.— It is not in the nature of evidence. Did the Chairman appreciate that Mr. Block asked for a bill of particulars as to the meaning of the charge with reference to the Socialist party being in absolute solidarity with the Russian Soviet or did he not? What I purpose to show is that the phrase solidarity came from the pen of Mr. Block, not as a matter of evidence, but as a matter of argument.

Mr. Hillquit.— It cannot be a matter of argument.

Mr. Stanchfield.— And that it came with the approval of Mr. Hillquit.

Mr. Hillquit.— How do we know all that unless it is proven?

Mr. Stanchfield.— Mr. Block was the man who introduced the manifesto in that Chicago convention and he stated to the convention that it was based upon your work at Saranac Lake.

Mr. Hillquit.— How do we know? We have no evidence of it. That is just the vice of this argument and that is just the basis of my contention. Now, Mr. Stanchfield proceeds to give us some little inkling of what he intends to prove.

Mr. Stanchfield.— Not at all. Mr. Stanchfield simply proposes to read precisely what he would read from a law book, precisely as Mr. Stedman would from various documents, various platforms, various programs. It simply shows that this whole argument of Mr. Block is puerile, and that the thing that he asks to have explained, that he asks you to translate, is your own language, sponsored by Mr. Hillquit.

Mr. Block.— You are not testifying now, I take it, Mr. Stanchfield?

Mr. Hillquit.— My contention is that Mr. Stanchfield has made here several statements of fact which may be true, which may not be true, which are not in evidence, which have not been proven. It is not important at this time whether they are true or not, but they clearly elucidate the vice of the proceeding. We have asked for a bill of particulars and Mr. Stanchfield picks out

one of the points which we asked for a bill of particulars on and proceeds to give it to us. Now, if this should be part of his bill of particulars, we would then have a right to argue whether it was a proper bill of particulars or whether it could be pleaded under the resolution, but to come up at this time —

Mr. Stanchfield.— This isn't in the nature of evidence.

Mr. Hillquit.— Mr. Block has stated certain things, Mr. Hillquit has stated other things, when there is no word of evidence about it, and to give that as argument, instead of proof, that I submit has never been done before in any court.

Mr. Stanchfield.— Well, but I am not intending to read the article.

The Chairman.— Well, then, I will hear your statement, but not allow you to read from the article.

Mr. Stanchfield.— The statement was to be that Mr. Block, who has just addressed the Committee and has asked the Committee to enlighten him as to the significance of the word solidarity, was the identical Mr. Block, who, in the Chicago convention wrote the manifesto in which it was stated that the Socialist party declared its solidarity with the Russian Soviet. That was the point to the stick. I don't know whether the Chairman appreciates the demand that Mr. Block was making. He asks us to furnish him with a bill of particulars as to what is meant by the phrase, "that the Socialist party was in absolute solidarity with the Russian Soviet," and our reply is that the expression is that the Socialist party declared its solidarity with the Russian Soviet came from the pen of Mr. Block; that he wrote the document and introduced it in the Chicago convention. Therefore, he must know much better than you or than we what was meant by that phrase.

Mr. Block.— Mr. Chairman, I object. Have I no right to object?

The Chairman.— You have a right to object and have your objection noticed. Let Mr. Stanchfield proceed.

Mr. Stanchfield.— There is no suggestion of evidence about the proposition. I am simply making answer; it ought to be perfectly clear that the word solidarity originated with Mr. Block and Mr. Hillquit and that they are asking us to translate that phrase for them.

Mr. Hillquit.— Does the Chairman admit that statement and the reading of this article at this time?

Mr. Stanchfield.— I don't propose to read the article.

The Chairman.— I shall not allow the article to be read. If Mr. Stanchfield has any argument to make I would like to hear that. That would be in the nature of evidence and it could be properly introduced in the trial.

Mr. Stanchfield.— The purpose is to show that these gentlemen are possessed of a knowledge and information.

The Chairman.— That is true.

Mr. Stanchfield.— Which they ask you to furnish them. That is the point to the suggestion. Aside from the proposition I understand that Mr. Block is the president of a company that published a paper.

The Chairman.— I don't think I will allow that to be read in the argument.

Mr. Block.— I object to any statement of alleged facts by Mr. Stanchfield unless they are proven by competent testimony or affidavit. This is not an argument addressed in answer to my motion for a bill of particulars, not by injecting evidence and statements of alleged acts unsupported here and which are not known to be facts. It might be a very distinct honor which he wishes to confer upon me by charging me with the authorship of this document. I may have had some little participation in it, but whether I did or did not have does not allow him to state that Mr. Block is the author of this or that. That is not addressing himself to the motion.

Mr. Stanchfield.— Well, Mr. Block, when I tender you the honor you don't cast it aside, do you. (Applause.)

Mr. Block.— I would accept any honor that you had the power to confer, but you cannot confer upon me the authorship of a document which I did not write. (Applause.)

The Chairman.— The argument of Mr. Stanchfield, Mr. Block, tends to show that the evidence that you desire, the bill of particulars of, is particularly within your own knowledge and under your own control. Now I will hear him upon that point and will not hear you.

Mr. Block.— You will hear me in response?

The Chairman.— In response but not at the same time.

Mr. Stanchfield.— Now, I had concluded the statement that the word was Mr. Block's word, sponsored by Mr. Hillquit, used by Mr. Block at the Chicago Convention. Therefore, these men must of necessity know precisely what was meant and intended by the phrase, "That the Socialist party declared its solidarity with the Russian Soviet."

Now, in the whole course of his argument he has acted and treated it as if this Committee were the plaintiffs in some proceeding and that he was the defendant or representing defendants and that he was before a tribunal asking for a bill of particulars. Now this is not a trial in that sense. It is simply an investigation by this Committee into the facts to determine whether or no the evidence warrants proceeding by the Assembly as a body and the testimony that is taken here will furnish these gentlemen a bill of particulars. They will be given time in which to meet it when this evidence is introduced. If they seek adjournments; if they seek the production of evidence, I haven't the slightest doubt but what the Chairman of this Committee will accord them that privilege and it is a frivolous waste of time to say they want a more definite charge than is embraced upon the face of these papers because the language implied is the language of these lawyers themselves.

The Chairman.— Do you want to reply?

Mr. Block.— Mr. Stanchfield is an adroit lawyer, we know that, and Mr. Stanchfield must know that it is fundamental in applications for a bill of particulars that it is fully immaterial that the applicant may know or may be possessed of knowledge concerning the matters upon which he desires particulars. That is not the point that we may know or are possessed of knowledge. We wish to know what your accusation is going to be; we wish to know what your charge is going to be in particulars. If there is any reference to a document enacted in Chicago or elsewhere, we wish to know what document you have in mind, not that we may not have the same in mind or some other one, but for the purposes of a regular hearing, whether it be called a trial or investigation, or an inquisition; it is to ascertain the exact facts. Whether you are the plaintiffs or representing the plaintiffs or the prosecutors, or what you will, surely you stand in one of those positions. We stand in the position of those who are accused and we are entitled to those particulars. I need not emphasize

that any longer to a committee of lawyers; that is, a committee of lawyers who are here, as they assert, in an impartial manner to do justice and are not paid advocates of any cause.

Mr. Hillquit.—I do not wish to take up the time of the Committee more than necessary, but I feel very strongly on the subject and would like to say a few words before the Committee leaves. We don't propose to quibble about it; we don't propose to make technical difficulties for the Committee or its counsel. If all we wanted were documents such as Mr. Stanchfield has read or attempted to read from, we have no objections to a mere reference. If you say we are referring to the proclamation adopted in Chicago in 1919, we know what you mean. If you refer to the resolution adopted in St. Louis, we likewise know what you mean; so we do when you refer to the constitution of the various branches of the party. When you take up the vast body of these charges as giving aid and comfort to the enemy or discouraging any work during the war, even including work in munitions and so on, we have the gravest charges against us on which we are absolutely unenlightened. Now, gentlemen, you have promised a fair trial; we have come in here on the assumption that you will grant us a fair trial. I respectfully submit a fair trial is absolutely impossible if we do not know in advance what evidence is ahead of us on those grave general charges. You haven't charged facts there; you have charged conclusions. You are going to establish or try to establish it in some way or other. It is a quibble to say that this is not any ordinary prosecution, that there are no prosecutors and no defendants here. There are defendants. We represent them; we defend them. You gentlemen undoubtedly need to offer some kind of evidence to make good these various grave charges which you have made. What do you want us to do? Do you want us to sit here and wait for some surprise to be sprung every five minutes and get up and say, "Oh, Mr. Chairman, this is so unexpected! Please let us think it over for twenty-four hours." That wouldn't do. Do you really intend, as Mr. Littleton seemed to have suggested, to try Lenine and Trotsky in this proceeding, to go into the program? Do you intend to subpoena them as witnesses? What do you intend to prove against the party, against these men? We may need perhaps days and days of preparation to meet it. We may need certain literature; we may need certain experts; we may need certain people. Do you want us to meet you? How do you want us to meet them? They are primed with all sorts of evidence which

they keep in the dark. It is a sort of invisible secret organization of all sorts of charges against us. How do you want us to meet it? I say it isn't a technicality on our part; we don't want to be capricious. Anything we know we are willing to rely on, and half of what your charges contain we cannot possibly know. And, gentlemen, again, the situation is too grave to be disposed of with a joke. I know that no matter how great the abilities of counsel on the other side, they cannot enlighten us on Socialism. I am painfully aware of it and admit it, but that is not the point. We are not interested in Socialism. We know Socialism; we have tried it. We have acquitted it long ago of all charges, but it is your conceptions, gentlemen, of what you think we believe is Socialism; it is your conceptions of what you think we preach that you will be trying us on, and we must have those conceptions of yours based upon such facts as you can cite or as you can marshal in order to enable us to meet it. Otherwise, how do you ever expect us to meet those facts of evidence which presumably you have?

I therefore ask you very insistently, Mr. Chairman, and you gentlemen of the Committee, not to pass lightly on this motion as a mere formality. It is highly important. It lies at the very substance of the matter, and I may say very frankly, very candidly, very solemnly, that I do not believe there is such a possibility as a fair trial, as a trial in which we will be warranted to take part if we are not apprised of the charges against us in some more definite, in some more concrete manner, in some such manner as the meanest criminal gets in every court in which he is charged with an offense.

The Chairman.—Gentlemen, certainly the matter under discussion should not be decided, as Mr. Hillquit said, with any regard to its being a joke. I do not think you meant that. I certainly do not mean it myself. Through all the argument of counsel here today who have presented the case so elaborately, it leads one to think that both sides of this controversy are fairly well conversant with what the other side is going to prove, and I have had in mind how to handle this particular part of the investigation and do what is right by these five gentlemen, who have the greatest interest in the outcome of this investigation.

I can see if you are bound by the hard and fast rule of a legal proceeding, compelling a bill of particulars, that the whole investigation will be confined to such narrow channels that it would not give the desired result to everyone.

I can see also that you gentlemen who represent the Assembly men find themselves confronted with a class of evidence that you are not prepared to meet, and you would be seriously affected. It seems to me to be the fairest way to dispose of this matter would be to deny the motion, but I wish it distinctly understood that the evidence each day shall be furnished these gentlemen and their counsel, and I think they will have the printed evidence in the morning so that you will be advised from day to day as to just what you have to meet. I can assure you gentlemen that you will not be taken by surprise. That if evidence is allowed, and there will be quite a large latitude allowed on both sides as to the introduction of evidence—I say to you that if evidence is produced here that you require any necessary delay to have it properly examined, or procure evidence to offset it, I will take care of that situation as fast as it develops. Under those conditions I wish to deny the motion.

Mr. Stanchfield.—Before you adjourn will you direct all witnesses to appear here to-morrow morning.

The Chairman.—Yes. Mr. Block.

Mr. Block.—You said we might have such delay as we need or would demand. That is exactly what we do not want. We do not want any delay. That is why I have asked for this bill of particulars, so there shall not be any delay. There are other persons, perhaps, who are interested in this proceeding, who would like to delay it until the end of this session here. The Socialist Assemblymen wish to have it disposed of as quickly as possible.

The Chairman.—I will take care of that situation, Mr. Block, and I will dispose of it as soon as possible.

Of course, I do not wish to limit further argument in this case or in this proceeding, but it seems to me the case is fairly well developed before this Committee, so that without any further formal opening, we could proceed with the taking of evidence.

Mr. Stanchfield.—We will be ready to proceed with the evidence to-morrow morning. I desire to ask you before you adjourn to direct all witnesses to be here to-morrow morning at 10:30, if that is the hour.

The Chairman.—Now, the Chair directs that all witnesses under subpoena appear here at 10:30 o'clock to-morrow morning, to which time the proceedings are adjourned.

Whereupon, at 6:10 P. M., the hearing adjourned to Thursday, January 22, 1920, at 10:30 o'clock A. M.

STATE OF NEW YORK — ASSEMBLY CHAMBER

In the Matter of the Investigation by the Assembly of the State of New York as to the Qualifications of Louis Waldman, August Claessens, Samuel A. deWitt, Samuel Orr and Charles Solomon to Retain Their Seats in Said Body.

THE CAPITOL,
ALBANY, N. Y., *January 22, 1920*

Present:

Hon. Louis M. Martin,
Hon. George H. Rowe,
Hon. James M. Lown, Jr.,
Hon. Edward A. Everett,
Hon. William W. Pellet,
Hon. Edward J. Wilson,
Hon. Charles M. Harrington,
Hon. Harold E. Blodgett,
Hon. Theodore Stitt,
Hon. Louis A. Cuvillier,
Hon. Maurice Bloch,
Hon. William S. Evans.

Appearances:

For the Judiciary Committee:

John B. Stanchfield,
Martin W. Littleton,
Elon R. Brown,
Charles D. Newton,
Arthur E. Sutherland,
Samuel A. Berger,
Archibald E. Stevenson.
Harry F. Wolff.

For the Socialists:

Morris Hillquit,
Seymour Stedman,
S. John Block,
William Karlin,
Gilbert E. Roe,
Walter Nellis.

Hon. LOUIS MARTIN, Chairman

(The Committee met pursuant to adjournment at 10:35 o'clock A. M.)

The Chairman.— I will consent that that (referring to a statement submitted by Assemblyman Evans) be entered in the minutes as dissenting from the decision of the Chair on that particular motion.

(By direction of the Chairman the following statement by Mr. Evans is spread on the record in full as follows):

On the first day of this proceeding counsel for the five Socialist Assemblymen moved that this Committee report to the Assembly that this proceeding be dismissed because there was neither constitutional nor statutory authority for it. The Chair denied the motion.

The reasoning of counsel for the Socialists on this proposition is legally sound. I desire to be recorded as dissenting from that ruling, upon the ground that the Assembly has no constitutional nor statutory power to suspend or expel a duly elected member upon any ground other than that specified in the Constitution or statute, namely, disqualification on returns, election, citizenship, age, residence or within 100 days previous to their election membership in Congress, the civil or military service of the United States, or for being an officer under any city government within that period of 100 days prior to their election. I go further than counsel for the Socialists and I believe that no other ground exists in law; not even prior conviction for crime, if it does not involve loss of citizenship nor affliction with loathsome disease, nor insanity nor other mental, moral or physical conditions. We must leave it to the good common sense of the sovereign power of the State, the electorate, to send to the Assembly representatives possessing creditable, mental and moral and physical faculties.

Disloyalty to the State and Nation or advocacy of force to overthrow the government may or may not be amenable to the criminal law. But whether amenable to the criminal law or not, it is not a disqualification, under the State Constitution, for membership in the Assembly, for such disloyalty and advocacy of force to overthrow the government. The duty and power to disqualify from elective office rests with the people, and not with the Assembly. If the people, or a part of them, knowingly choose

to elect disloyal, unpatriotic, or morally, mentally, or physically unfit representatives, we must receive them and keep them so long as they conduct themselves in the best way they know how.

If those five Socialist Assemblymen are disloyal traitors, spies or enemies, the responsibility for their presence here is the people's not the Assembly's. The duty and power to disqualify them on those grounds is the people's and not ours. For the people never delegated such a power to the Assembly.

I deem these principles of the most vital importance to the existence and survival of representative government. The gravity of the charge against the five Socialist Assemblymen must not be allowed to overshadow these principles.

The constituencies of the five men under investigation elected them with full knowledge of the present charges against them is my belief. I know that to be the fact in at least two instances, that of Mr. Orr and of Mr. deWitt. I have personally charged them with this precise disloyalty before their constituencies, during the past two years. Mr. Fertig and Mr. Mullen, former members of the House, likewise accused them before their constituencies. Yet they have been returned to us and we must, in law, seat them.

To maintain our form of government we must rely absolutely on the electorate—the majority of the electorate—to send to the Assembly men who from our viewpoint are loyal and clean, and we must hope that the majority of the electorate will never fail in that respect. If in that respect the majority of the electorate ever fail, then our government must fail—there is no other alternative.

The American electorate—the great majority—never yet has failed in that respect. It is my hope and belief that they never will. In that ideal only lies the salvation of American institutions. Though the Assembly has the naked power to suspend or expel, and its decision is final, in the sense that no appeal lies to any tribunal from the direct act of expulsion or suspension, the use of such power and its exercise, or assertion that such power is a lawful one, is the first blow against representative government and a fatal one.

For these reasons I am compelled to dissent from the ruling of the Chair.

The Chairman.—We will proceed.

Mr. Stanchfield.— Is Mr. Julius Gerber here?

Mr. Hillquit.— Yes, he is here.

Mr. Stanchfield— Will he take the stand, please?

Mr. Hillquit.— Mr. Chairman, and Mr. Stanchfield, do I understand we are now proceeding to the taking of testimony?

The Chairman.— That is as I understand it.

Mr. Hillquit.— If this is the case, I desire, in order to facilitate the proceedings, to read certain admissions on the record, which will save the time of both the Committee and counsel on both sides.

Mr. Stanchfield.— We object to that, Mr. Chairman. We purpose to prove the case in our own way. We are quite prepared to make all proof that we regard as material and necessary in the matter, and it is quite out of order for counsel to tender admissions as long as they are not asked for.

Mr. Hillquit.— Mr. Chairman, may I state there have been certain pleadings in the matter. We have been charged with certain acts or the commission of certain acts. We have so far argued only as to their substantiality as charges in law. We have not argued on the facts. We have had no opportunity to deny or affirm. The rules of the Supreme Court having been adopted for this proceeding, we certainly have the right, not only a right, but a duty, to submit so much of the charges as we are ready to submit so as to frame issues, and leave it to this Committee to pass upon the disputed questions only.

Now, there are a great many questions here that are not disputed, and I maintain, sir, that we have not only the right but the duty to separate one from the other, to state what we admit, to state what we deny. I also maintain that would save perhaps one-half of the time for this Committee, instead of calling an elaborate array of witnesses, each one to testify to certain facts which we are perfectly ready to admit. We prefer to admit them of record and let us then confine the controversy to disputed or controverted facts only.

The Chairman.— If counsel on both sides agreed to the admission, of course, the Chairman would have no objection. But counsel objects to the admission under the theory, I suppose, that it would narrow the issues and prevent a full and further examination. Therefore, I should have to deny your motion.

Mr. Hillquit.— Before you rule, Mr. Chairman, of course I do not intend or have the power to preclude the attorneys for the other side from calling any witnesses they please on any additional question they choose to raise. I maintain my right, and my absolute right, to state here to this Court what parts of the complaint we admit to be true. I maintain my right to be tried on issues only and issues framed. There is a certain important substantial right in it. If we are here for the purpose of trying the merits of the charges before you I cannot conceive of any possible objection to framing issues. If we are here for the purpose of making it appear that there is a formidable array of witnesses to testify to facts which are of common everyday knowledge and ready to admit in order to trumpet the wrath as certain unearthed proof against us, we object to it. We are here for a very distinct and definite purpose to try charges against us, and when we say try charges against us, we mean try issues and nothing else on admitted facts.

The Chairman.— You will proceed.

Mr. Hillquit.— What, Mr. Chairman?

The Chairman.— I deny your application.

Mr. Hillquit.— I take an exception.

The Chairman.— The exception is granted.

JULIUS GERBER, called as a witness and being duly sworn, testified as follows:

Direct examination by Mr. Stanchfield:

Q. Mr. Gerber, you reside where? A. At 979 Hegeman avenue, Brooklyn.

Q. You have been subpoenaed to produce certain documents here? A. Yes, sir.

Q. Have you brought them with you? A. I have, sir.

Q. Have you produced what is known as the National Constitution and Platform of the Socialist Party for the year 1917? A. Yes, sir.

Mr. Stanchfield.— I offer that in evidence, Mr. Chairman.

Mr. Hillquit.— No objection.

The Chairman.— It may be received and marked Exhibit No. 1.

Exhibit. Pamphlet referred to received in evidence and marked Exhibit No. 1.

Remark.

Mr. Stanchfield.— I propose, Mr. Chairman, to read from this constitution certain provisions into the record. Under the head of "Membership":

"Section 1. Every person, resident of the United States of the age of eighteen years and upward, without discrimination as to sex, race, color or creed, who has severed his connection with all other political parties and political organizations, and subscribes to the principles of the Socialist Party, including political action and unrestricted political rights for both sexes, shall be eligible to membership in the party.

"§ 2. No person holding an elective public office by gift of any party or organization other than the Socialist Party shall be eligible to membership in the Socialist Party without the consent of the State organization, nor shall any member of the party accept or hold any appointive public office or remunerative position (civil service positions excepted), without the consent of the State organization. No party member shall be a candidate for public office without the consent of the city, county or State organizations, according to the nature of the office.

"§ 3. A member who desires to transfer his membership from the party in one state to the party in another state may do so upon the presentation of his card showing him to be in good standing at the time of asking for such transfer and also a transfer card duly signed by the secretary of the local from which he transfers.

"§ 4. No member of the party, in any state or territory, shall, under any pretext, interfere with the regular or organized movement in any other state.

"§ 5. All persons joining the Socialist Party shall sign the following pledge:

APPLICATION FOR MEMBERSHIP IN THE SOCIALIST PARTY.

"I, the undersigned, recognizing the class struggle between the capitalist class and the working class, and the necessity of the working class organizing itself into a political party for the purpose of obtaining collective ownership and demo-

cratic administration and operation of the collectively used and socially necessary means of production and distribution, hereby apply for membership in the Socialist Party.

"I have no relation (as member or supporter) with any other political party.

"I am opposed to all political organizations that support and perpetuate the present capitalist profit system, and I am opposed to any form of trading or fusing with any such organizations to prolong that system.

"In all my political actions while a member of the Socialist Party, I agree to be guided by the constitution and platform of that party.

"§ 6. Any member of the Socialist Party, elected to an office, who shall in any way vote to appropriate moneys for military or naval purposes, or war, shall be expelled from the party.

ARTICLE III.

MANAGEMENT.

"Section 1. The affairs of the Socialist Party shall be administered by the National Executive Committee, its subcommittees and officials, the National Convention and the general vote of the Party."

I read from Article 7, paragraph 3:

"§ 3. In all legislative bodies, as Congress, State Legislatures, Board of Supervisors or town council, Socialist Party members shall organize into a group separate and apart from all other parties. They shall elect a Chairman and in the support of all measure definitely declared for in the platforms of the party, they shall vote as a unit."

Under Article 10, paragraph 3, subdivision B:

"(b) No member of the Socialist Party shall, under any circumstances, vote in any political election for any candidate other than Socialist Party members nominated, endorsed or recommended as candidates by the Socialist Party, or advocate voting for them. To do so will constitute party treason and result in expulsion from the party.

"§ 4. In states and territories in which there is one central organization affiliated with the party, the state or terri-

torial organizations shall have the sole jurisdiction of the members residing within their respective territories, and the sole control of all matters pertaining to the propaganda, organization and financial affairs within such state or territory; provided, such propaganda is in harmony with the national platform and declared policy of the party. Their activity shall be confined to their respective organizations, and the National Committee, its sub-committees or officers shall have no right to interfere in such matters without the consent of the respective state or territorial organization."

Article 12, page 12, section 1.

"§ 1. Five branches of the Socialist Party working in any other language than English shall have the right to form a national Federation under the supervision of the Executive Secretary and the Executive Committee.

"§ 2. Such National Language Federation shall have the right to elect an officer known as Translator — Secretary, who shall be conversant with his own language as well as the English language, and whose duty it shall be to serve as a medium of communication between his federation and the National Organization of the Socialist Party."

I read from page 21.

POLITICAL DEMANDS.

"(1) Complete adult suffrage by the elimination of all residential and educational qualifications, by the abolition of all registration fees, poll taxes, or other impediments to voting. Enfranchisements of those who have declared their intention to become citizens and have resided in this country one year.

"(2) Democratic control of the Government through a constitutional amendment providing for the initiative, referendum and recall.

"(3) Effective voting and proportional representation on all legislative bodies.

"(4) The abolition of the power of the courts to make and unmake laws because of alleged unconstitutionality or other grounds.

"(5) Rigid maintenance of the right of free press, speech and assemblage in peace and in war."

Now, Mr. Gerber, in obedience to the command of the subpoena have you produced a copy of the State Constitution of the Socialist Party? A. Yes, sir.

Mr. Hillquit.— No objection.

The Chairman.— Mark it received.

Mr. Stanchfield.— We offer that in evidence, if Your Honor please. It is entitled The State Constitution of the Socialist Party of the State of New York, issued by authority of the New York State Committee, Socialist Party, 7 East 15th street, New York, N. Y.

The Chairman.— Received in evidence.

(The paper was received in evidence and marked Exhibit No. 2, C. M.)

Mr. Stanchfield.— I purpose to read, gentlemen of the Committee, certain provisions from the State Constitution.

“Organization, Section 1. The Socialist Party of the State of New York is a part of the National Organization of the Socialist Party of the United States and shall be governed by the platform, constitution and resolutions of said party.

“2. The State Organization shall consist of all present local organizations of the Socialist Party within the State of New York and of all such as may hereafter be organized within the State.

“Section 8, Page 5. Qualified applicant residing within the territorial jurisdiction of the local, may become a member by filing with the Secretary of such local the application for membership provided that the application shall be read the next regular meeting of the local and accepted.

“Sec. 10. Should objection be made to the admission of any applicant for membership, two-thirds of the membership of the local voting shall be necessary to admit.

“Sec. 11. There shall be issued to each member on admission a membership card in the form prescribed by the State Executive Committee, such card to be signed by the financial secretary of the Local of which the applicant becomes a member, or in case of a member at large, by the State Secretary. With the membership card each member shall receive a copy of the State and National Constitutions.”

On page 6 under the head of "Suspension and Expulsion:"

"Sec. 13. (a) A member may be expelled from the party, or may be suspended for a period not exceeding one year for the following offenses:

"(b) For supporting or aiding in the election of a candidate for any office, in either a primary or final election, of any other than the Socialist Party or in opposition to the regularly selected candidates of the Socialist Party.

"(c) For accepting the endorsement of a party other than the Socialist Party.

"(d) For the larceny, embezzlement or corrupt misappropriation for his own use or benefit of party funds.

"(e) For accepting or holding any appointed position, under a non-socialist administration, except a civil service position, or a position to which the Socialist Party is entitled under the law.

"(f) For failing or refusing, when elected to a public office or while acting as a delegate to an official party convention, to abide and carry out such instructions as he may have received from the dues paying party organization or as prescribed by the State or national constitutions.

"(g) For the wilful violation of any provisions of this Constitution."

Turn over to page 22, Article VIII. Miscellaneous Regulations.

"Resignation of candidates and appointees.

"Section 1. All candidates for public office or appointees to public office selected by the dues paying membership of the Socialist Party of the State of New York or any of its subdivisions shall sign the final resignation blank before nomination is made official or appointment is made final.

"Form of resignation. Section 2. Recognizing the Socialist Party as a purely democratic organization in which the source and seat of all powers lies in the dues paying membership, as an elected (or appointed) official of the party, it shall be my duty to ascertain and abide by the wish of the majority of the dues paying members of my local or political subdivision.

"To the end that my official acts may at all times be under the direction and control of the party membership I hereby sign and place in the hands of local to which I

may be elected (or appointed), such resignation to become effective whenever a majority of the local shall so vote.

"I sign this resignation voluntarily as a condition of receiving said nomination (or appointment) and pledge my honor as a man, a Socialist, to abide by it."

On page 23:

"Section 4. Elected Socialist Officials shall submit the names of the proposed or contemplated appointments for heads of departments, members of Mayor's Cabinets, Commissioners, Deputies and Members of Commissions or any other appointees to position of administrative or executive character for the approval of the local or county organizations. If said local or county organization shall disapprove of any proposed appointment, it may submit its choice of appointment to the said elected official. In case of further disagreement, the local or county organization and the elected officials have the right to appeal to the State Executive Committee."

That section is headed Appointment for Non-Competitive Offices.

By Mr. Stanchfield:

Q. Mr. Gerber, in obedience to the demand of the subpoena, have you produced the Socialist Party by-laws for any of the counties in the State? A. The only ones I have are those from New York County.

Q. Will you produce the one you have for New York County?
(Witness produces pamphlet requested.)

Mr. Stanchfield.—We offer in evidence what purports to be the by-laws of the Socialist Party, New York County, adopted 1918, the printed matter upon the cover being "Socialist Party, New York County, Headquarters, 7 East 15th Street, New York."

Mr. Hillquit.—Pardon me. Does Mr. Stanchfield offer what purports to be the by-laws of the Socialist Party of New York county, or does he offer in evidence the by-laws?

Mr. Stanchfield.—I offer in evidence the by-laws. National. I would say "Purport to be." I am not consenting to whether they are or not.

The Chairman.— It may be received and marked.

(By-laws referred to received in evidence and marked Exhibit No. 3.)

Mr. Stanchfield.— From Exhibit No. 3, we read, on page 1. section 1, under the head of "Organization," —

"Section 1. Local New York shall be composed of all organizations of the Socialist Party within the Borough of Manhattan in the City and County of New York.

"Management. Section 1. The affairs of the local shall be conducted by a Central Committee, and by the officers and Committees elected by the Central Committee."

On page 5:

"The Executive Committee. Section 1. The Executive Committee shall consist of nine members elected by the Central Committee and the District Representatives, elected by all the party members in such Assembly District at a joint meeting of all the branches within the territory of the Assembly District. Vacancies are to be filled in the same manner."

I will read page 8, under "Propaganda Committee."

"Section 3. The Propaganda Committee shall consist of a Chairman, elected by the Executive Committee and the Chairmen of the Propaganda Committees of all branches, or subdivisions of the local; it shall:

"(a) Supervise the Propaganda work of the local.

"(b) Supervise and print popular Socialist literature.

"(c) Supervise the distribution of literature and open-air meetings and act jointly with the Committee on Education and the Committee on Propaganda among women where their work coincides."

Page 24:

"Membership. Section 1. Any person 18 years of age or over, who agrees to abide by the National Platform and Constitution and Resolutions of the Socialist Party, may become a member of the party.

"Sec. 6. Every member must belong to the branch in whose territory he resides except by special permission of the Central Committee."

I read from page 34, section 8:

"On accepting a nomination of the party for public office, the candidate shall at once give to the Executive Committee a signed resignation, dated, of the office for which he is nominated, and shall assent in writing to its being filed with the proper authorities if, in case of election, he proves disloyal to the party."

Under the head of "Eligibility for Political Office," page 35, section 1:

"No member shall be eligible to become a candidate for political office who has not been a member of the party in good standing continuously for at least three years."

By Mr. Stanchfield

Q. I understand you to say, Mr. Gerber, that you are a resident of Brooklyn? A. Yes.

Q. Kings county? A. Yes.

Q. Is there a printed copy of by-laws for Kings county, similar to the one I have introduced in evidence for New York county? A. I cannot say, sir. I have not been a member of Kings county for the last eleven years, although I reside there.

Q. In other words, you do not know whether there is one or not? A. No, I don't.

Q. Do you know whether there is a similar copy of by-laws for the Bronx? A. I do not.

Q. Now, you were also asked to produce here, pursuant to the command of the subpoena, certain application cards? A. Yes, sir.

Q. Have you produced them? A. I have them here.

Q. May I have them? (Witness produces cards.) A. Well, I will explain it a little later.

Q. You produce, Mr. Gerber, in obedience to the subpoena, an application for membership, dated August 29, 1913, signed by Samuel A. deWitt? A. Yes, sir.

Mr. Stanchfield.—Do you want to see it? (Hands to Mr. Hillquit the card referred to.)

Mr. Hillquit.—No objection.

By Mr. Stanchfield:

Q. You know, do you know, Samuel A. deWitt? A. I do.

Q. And he is one of the five Assemblymen under investigation here? A. Yes, sir.

Mr. Stanchfield.— I offer that application card in evidence.

The Chairman.— It may be received and marked.

(Application card referred to received in evidence and marked Exhibit No. 4 of this data.)

Mr. Stanchfield.— I will read one of these in evidence: "Name: Samuel deWitt, 1857 Washington Avenue. Address: 359 Washington Avenue. Address: 359 Madison Street, care Aronawich. Transferred to Bronx 3/13/15"—that means March 13, 1915?

The Witness.— Yes.

Mr. Stanchfield.— Which the witness says, translated, means March 13, 1915:

"Admitted by local branch 2. Occupation: Dealer in machinery. Age, 23. Of what Trade Union or other labor organization are you a member, if any? Answer, none. Are you a citizen? Yes. Have you declared your intention to become a citizen? If so, give date of first papers? Blank. How long have you lived in the United States? Born here. Were you a member of an existing Socialist or Capitalist Party? Not answered. If so, of which? None. Of which Socialist newspapers or periodicals are you a regular reader? Call, Masses, Appeal to Reason."

On the reverse side is the emblem of the torch and:

"Application for membership in the Socialist Party. I, the undersigned, recognizing the class struggle between the capitalist class and the working class, and the necessity of the working class constituting themselves into a political party, distinct from and opposed to all parties formed by the propertied classes, hereby declare that I have severed my relations with all other parties, and I endorse the platform and constitution of the Socialist Party, including the principle of political action, and hereby apply for admission to membership in said party. Proposed at the meeting of

Branch blank by J. Zibolsky. Witness: David Quail. Dated, August 29, 1913. Signed by Samuel A. deWitt, signature of applicant. Local New York Socialist Party, office, 239 East 84th Street."

Q. I hand you, Mr. Gerber, a second card and ask you whether that is signed by Samuel Orr? A. It is.

Q. And is he one of the members named in this investigation? A. Yes, sir.

Mr. Stanchfield.— I offer that in evidence.

Mr. Hillquit.— There is no objection.

The Chairman.— It will be received and marked.

(The application of Samuel Orr for membership in the Socialist Party was received and marked Exhibit No. 5 of this date.)

Mr. Stanchfield.— The Chair directs that Exhibit be copied into the record.

The Chairman.— All of them will be copied into the evidence.

(Exhibit 5 is as follows:)

"APPLICATION FOR MEMBERSHIP IN THE SOCIALIST PARTY.

"I, the undersigned, recognizing the Class Struggle between the capitalist class and the working class, and the necessity of the working class constituting themselves into a political party, distinct from and opposed to all parties formed by the propertied classes, hereby declare that I have severed my relations with all other parties, and I endorse the platform and Constitution of the Socialist Party, including the principle of political action, and hereby apply for admission to membership in said party.

Proposed at the meeting of Branch 7 by Irving Brackman.

J. Trangot

Date, 191..

Signature of Branch Fin. Sec'y.

(Stamp:)

(signed) Samuel Orr.

Admission fee paid.

Signature of applicant.

Issued by the Socialist

Party of New York.

Local New York. Socialist Party, Office, 239 East 84th St.

(Reverse side of Exhibit 5:)

Name, Samuel Orr. Trans. to Local Bronx. 5/19/14.

Address, c/o 991 Union Ave.

Address Admitted by Local, New York. Branch 7.

Occupation, Law Clerk. Age 22.

Of what trades union or other labor organization are you a member, if any? None.

Are you a citizen? Yes.

Have you declared your intention to become a citizen? If so, give date of first papers?

How long have you lived in the United States? 21 years.

Were you a member of any existing Socialist or Capitalist Party?

If so, of which?

Of which Socialist newspapers or periodicals are you a regular reader? The Call, Coming Nation, etc.

Financial Report: This form should be filled out by the Branch Secretary."

Q. I hand you a white card that you say you have produced in obedience to the subpoena and ask you what that is? A. This is the record card of membership of Mr. August Claessens.

Q. Is it not an application card? A. No, it is not, sir.

Mr. Hillquit.— At this point, Mr. Stanchfield, I desire to state that we have been able to locate the two membership application cards, if produced only, but we admit for the record that the remaining three Members of Assembly under charges have signed identical application cards in form identical with the one first introduced by you in evidence.

Mr. Stanchfield.— That is quite satisfactory. We will take the admission.

The Chairman.— The admission may be received by consent of counsel. That applies then to all five members.

Mr. Stanchfield.— We introduced two cards, and Mr. Hillquit's admission we have to the remaining three. That is right, Mr. Hillquit?

Mr. Hillquit.— That is correct, Mr. Stanchfield.

By Mr. Stanchfield:

Q. I notice, Mr. Gerber, on the membership card of Mr. Orr, being Exhibit No. 5, that in response to the question of which Socialist newspapers or periodicals are you a regular reader, the answer is "The Call, Coming Nation, etc." Now, do you sustain any official relation, Mr. Gerber, to the Socialist Party? A. I am the Executive Secretary of the Socialist Party in New York county.

Mr. Hillquit.—Louder.

The Witness.—Executive Secretary of the Socialist Party of New York county.

By Mr. Stanchfield:

Q. Now, do you sustain any official relation to the paper published in New York known as "The Call"? A. Yes, sir.

Q. Is that published by a corporation or voluntary association? A. It is a membership corporation.

Q. Published by a membership corporation? A. Yes, sir.

Q. And what relation do you officially, if any, sustain to the membership corporation which publishes the New York Call? A. Secretary.

Q. And who is the President? A. Mr. S. John Block.

Q. The same Mr. S. John Block who addressed us yesterday? A. Yes, sir.

Mr. Hillquit.—He is only one, Mr. Stanchfield.

Mr. Block.—I will admit it, if you desire it.

Mr. Stanchfield.—That is all right, Mr. Gerber; I will take your admission.

By Mr. Stanchfield:

Q. Is the New York Call one of the organs of the Socialist Party? A. Yes, sir.

Q. And has it been in any way designated as the organ of the party? A. Oh, not that I know of.

Q. But it is so recognized, as the organ in which the official actions, documents, pamphlets and papers of the Socialist Party are published? A. Sometimes.

Q. I notice in the copy that I happen to have before me, which

is dated the 22nd of September, 1919, there is a column that purports to be devoted, is it not, to official Socialist news? A. Yes, sir.

Q. And was it not, and is it not the newspaper in which the official doings of the Socialist Party are published from time to time? A. Yes, sir.

Mr. Stanchfield.—I notice that it has on the first page at either end, as the Committee will observe, The Torch, which is the —

Mr. Hillquit.—Political emblem —

Mr. Stanchfield.—Political emblem of the Socialist Party.

That is all for the present, Mr. Gerber. We will want you again later.

Mr. Hillquit.—Are you through with the witness?

Mr. Stanchfield.—For the present. We are not through with him, but that is all for the moment.

Cross Examination by Mr. Hillquit:

Q. What is your official position with the Socialist Party? A. Executive Secretary of the Socialist Party in New York county.

Q. Just a little louder, please. How long have you been executive secretary of the Socialist party in New York county? A. Since February, 1911.

Q. That is, nine years continuously? A. Yes, sir.

Q. And prior to that have you had any other office in the organization of the Socialist party in the county of New York? A. Yes, sir.

Q. When? A. 1899 up to 1902.

Q. And what office did you then hold in the Socialist party in New York county? A. Similar positions.

Q. Executive secretary? A. Yes, sir.

Q. Are you also a dues-paying member of the Socialist party? A. Yes, sir.

Q. And how long have you been such dues-paying member of the Socialist party? A. 1890; that is, I joined what was then the Socialist Labor party.

Q. You have been a member of the Socialist party then ever since its organization? A. Yes, sir.

Q. Which was when? A. 1899.

Q. 1899. And prior to the organization of the Socialist party you were a member of the Socialist Labor party? A. Yes, sir.

Q. Which party was the predecessor of the Socialist party? A. Yes, sir.

Q. As the political party of Socialism in the United States; is that correct? A. Yes, sir.

Q. During all this period have you ever attended national conventions of the Socialist party? A. Yes, sir.

Q. How many conventions of the Socialist party have you attended as a delegate? A. 1900, 1904, 1908, 1912, 1917 and 1919.

Q. That is practically all the national conventions of the Socialist party held since its inception? A. Yes, sir.

Q. And in such conventions did you actively participate? A. Yes, sir.

Q. In the deliberations and actions of the conventions? A. Yes, sir.

Q. Served on committees? A. Yes, sir.

Q. And take part in the proceedings? A. Yes, sir.

Q. And have you also during the membership in the Socialist party attended conventions of the Socialist party in the State of New York? A. Yes, sir.

Q. As a delegate? A. Yes, sir.

Q. And how many conventions of the State organization of the Socialist party in this State have you attended? A. All, since 1900.

Q. And were you active in such conventions? A. Yes, sir.

Q. Serving on committees? A. Yes, sir.

Q. And taking part in deliberations? A. Yes, sir.

Q. And have you ever been a member of the State Committee of the Socialist Party of the State of New York? A. Yes, sir.

Q. Are you such member now? A. I am, sir.

Q. From your membership in the Socialist Party, you attended upon its conventions, National and State; your connection with the State organization as a member of the State Committee and your connection with the local organization as its executive secretary, are you fully familiar with the practices, platforms, declarations of the party? A. I think I am.

Q. Mr. Stanchfield after introducing in evidence the National Constitution of the Socialist Party has read into the record sev-

eral provisions with reference to membership in the Socialist Party providing for the qualification of membership and further that every applicant for membership subscribes to the principles of the Socialist Party including political action and unrestricted political rights for both sexes. How long, if you know, has this provision in the Constitution of the Socialist Party been in force? A. As long as I can remember.

Q. That is, ever since the organization of the Socialist Party in 1899? A. Yes, sir; it may not have been the same language, but the spirit was the same.

Q. The substance? A. The substance was the same.

Q. Mr. Stanchfield also read certain provisions of the Constitution restricting the rights of members of the party to accept political office from other political parties or to fuse or compromise with other political parties in public elections. How long, if you know, has this provision been an integral part of the Constitution of the Socialist Party? A. Ever since the organization of the Socialist Party.

Q. Mr. Stanchfield has also read the provision of the Constitution, article 2, section 5, containing the wording of the application for membership in the Socialist Party and he has subsequently introduced in evidence the application made by two of the five Assemblymen now under charges, reiterating the same wording. I will ask you how long, if you know, has this provision for application for membership in the Socialist Party been in the constitution of the party. A. Ever since its organization.

Q. That is 21 years? A. Yes, sir.

Q. And all during that time have applicants for membership in the Socialist Party signed the identical applications or similar applications that have been offered in evidence here? A. Yes, sir.

Q. And prior to the organization of the Socialist Party of the United States were similar applications in vogue with the Socialist Labor Party, the predecessors? A. Yes, sir.

Q. Of the Socialist Party? A. Yes, sir.

Q. Does your answer apply with respect to the other provisions of the National Constitution which Mr. Stanchfield read into the record? A. Well, not all of them.

Q. Well, then, let me point out one by one. I thought I could save some time.

With reference to representatives of the Socialist Party in Congress, Mr. Stanchfield read this clause, article 7, section 3:

“In all legislative bodies, as Congress, State Legislatures, Boards of Supervisors or Town Councils, Socialist Party members shall organize a group separate and apart from other parties. They shall elect a Chairman in support of all measures and in support of all measures definitely declared for in the platform of the party they shall vote as a unit.”

I shall ask you if you recall when that provision was first adopted and embodied in the Constitution of the Socialist Party? A. Well, I don't remember when it was first put in the Constitution in the wording that it is in there now, but the substance of it was in the Constitution ever since the organization of the Socialist Party and the Socialist Party is a party by itself and its representative must act accordingly.

Q. Wasn't this particular provision of the Constitution in its present wording inserted immediately after the election of the first Socialist representative in Congress? A. I think it was.

Q. And that was how many years ago? A. If I am not mistaken it was in the 1912 Convention.

Q. Nineteen hundred and twelve and is consequently now eight years old? A. Yes, sir.

Q. I shall ask you whether, if you know, this provision has been carried into effect by groups of elected Socialist representatives in such States as they have been elected in? A. To my knowledge it has been in the Assembly of New York of 1918 when we had ten Assemblymen here organized as a group.

Q. And did they appoint a minority or minority leader? A. Yes, sir.

Q. And do you know whether or not at the same time the Democratic Party and the Republican Party organized as groups? A. To my knowledge they always did.

Q. Separate and apart from the Socialist Party? A. Absolutely.

Q. And sometimes holding caucuses? A. Yes, I wasn't permitted in the House of Congress one day because the Democratic Party had a caucus there one day.

Q. And barred out the public? A. Yes, sir.

Q. I shall now read to you another provision referred to by Mr. Stanchfield: “No member of the Socialist Party shall under any circumstance vote in any political election for any candidate

other than Socialist Party members nominated, endorsed or recommended as candidates by the Socialist Party, or advocate voting for them. To do so will constitute party treason and result in expulsion from the party." I will ask you how old is this provision of the Constitution I have just read to you? A. As long as I can remember but, as I said before, not the same wording; the words may have been changed from time to time, but the substance was the same all the time.

Q. The principle that no member of the Socialist Party can retain his membership if he votes for candidates of other political parties? A. Yes, sir.

Q. That you say has been the corner principle of the Socialist Party ever since you knew it? A. As long as I can remember.

Q. That is, since its organization? A. Yes, sir.

Q. And has it been a similar principle of the Socialist Labor Party before its organization? A. Yes, sir.

Q. Are you familiar with the practices of the Socialist Parties in other countries? Are you familiar with the literature on the subject? A. To an extent, yes.

Q. Can you say whether or not the same rule has always prevailed in all Socialist Parties the world over? A. Yes, sir.

Mr. Stanchfield.—I object to that, Mr. Chairman. We are not interested, I take it, in issues or parties outside of the United States. It may take us long enough to prove questions involved in the United States.

Mr. Hillquit.—I am perfectly willing to accept Mr. Stanchfield's statement that we are not interested in any practices of Socialist Parties outside of the United States and upon the understanding that such matters will not be brought into this proceeding, I am ready to withdraw this question.

Mr. Stanchfield.—I object to the question as you put it on the ground that it is not cross-examination. In fact, we have been quite courteous in order to save time in that regard because the witness was simply called here to produce some documents.

Mr. Hillquit.—And to answer certain questions which he has.

The Chairman.—What is the question?

(The question was then read by the stenographer.)

Mr. Stanchfield.—I ask that the objection be noted before the answer.

The Chairman.—I will let him answer as far as that and no farther. You are speaking generally, I take it.

The Witness.—I didn't get you, Mr. Chairman.

The Chairman.—You are speaking generally, I take it.

Mr. Hillquit.—He has qualified as an expert.

The Chairman.—I am going to let him answer that one question, that is all.

Mr. Hillquit.—I haven't asked any more questions than this one.

Referring to Section 4 of Article 10, likewise read into the record by Mr. Stanchfield it provides:

"In states and territories in which there is one central organization, affiliated with the party the state or territorial organizations shall have the sole jurisdiction of the members residing within their respective territories and the sole control of all matters pertaining to the propaganda, organization and financial affairs within such state or territory provided such propaganda is in harmony with the national platform and declared policy of the party."

I will ask you whether that provision of the Constitution has been in the Constitution as long a time as the other provisions that you testified to? A. Yes, sir.

Q. I now refer to Article 12, entitled Foreign Speaking Federations, and I read the sections quoted by Mr. Stanchfield:

"Five branches of the Socialist Party working in any other language than English shall have the right to form a National Federation under the supervision of the Executive Secretary and the Executive Committee."

That is section 2.

"Such national language Federation shall have the right to elect an officer known as translator Secretary who shall be conversant with his own language as well as the English language and whose duties shall be to serve as a medium of

communication between his Federation and the National Organization of the Socialist Party."

And I will ask you whether or not in actual practice foreign speaking language federations were established within the Socialist Party? A. They have been established.

Q. Have been? A. In some form or another ever since its organization.

Q. And do you know the activities and functions of such federations? A. I do, sir.

Q. And what were such activities and functions?

Mr. Stanchfield.— I object to that, Mr. Chairman. That is not proper cross-examination nor relevant nor material at this time.

Mr. Hillquit.— I respectfully submit that where a certain section of the platform has been read into the record every question pertaining to the elucidation and explanation of that section is perfectly germane and perfectly competent.

The Chairman.— Will you read the question again?

(The question was then read by the stenographer.)

The Chairman.— That is on the relation of the foreign-speaking language federation?

Mr. Hillquit.— Yes.

The Chairman.— Well, I rather think I shall sustain the objection on this ground that you can prove that as a matter of affirmative defense later.

Mr. Hillquit.— Pardon me, Mr. Chairman, we have a right, I take it, to elucidate each point brought out by the prosecution through the mouth of the witnesses in the prosecution. That is the office of the cross-examination. There would be no object in cross-examination at all otherwise. If you say, sir, that we shall have an opportunity to introduce positive evidence, the same applies to every case of cross-examination. The direct statements of the witness can always be introduced. The office of cross-examination is to elucidate such matter as is brought out at the time it is brought out, and through the witness that has brought it out.

The Chairman.— You don't get me, Mr. Hillquit. Now, assuming Mr. Stanchfield had objected to this first or second ques-

tion you asked on cross-examination. He simply placed a set of by-laws or constitution in evidence and rested the case.

Mr. Hillquit.—No, pardon me, he has done more than that. He has read certain portions from this Constitution and has read such portions as undoubtedly he believes carry certain implications; otherwise he wouldn't have read them.

Mr. Stanchfield.—Mr. Chairman, the rule would be that all Mr. Hillquit could do if I saw fit to insist on its enforcement would be to read other sections, but purely in the interest of time I allowed him to go ahead without objection. Now, when he is trying to explain what the functions of Socialism are —

The Chairman.—My idea was to have it in the line of his defense so we would know where we could reach it. The question will be reached later in the regular way. I will deny it now with the privilege of taking it up later.

Mr. Hillquit.—I take an exception.

Q. Turning to the state constitution of the Socialist Party, Mr. Gerber, which, likewise, was offered in evidence, I will ask you whether the state organization of the Socialist Party always had a state constitution of its own. A. Yes, sir.

Q. And I will ask you whether it always was substantially of the same contents and effect as the constitution offered in evidence.

Mr. Stanchfield.—I object to that, because that calls for an entirely different proposition, calls for what preceding constitutions have been, and, of course, the constitutions themselves would be the best evidence. It is not a proper line of inquiry. I repeat again, when a witness is called simply to produce certain exhibits the only earthly right of cross-examination except by consent rests upon putting in the balance of the documents.

The Chairman.—It is the same question practically as several others, isn't it?

Mr. Stanchfield.—You mean heretofore by the same witness?

The Chairman.—Yes.

Mr. Stanchfield.—I think it was as to certain individual sections about which I was not concerned. He said they had been in force in the way in which they appeared in the exhibit since the

foundation of the party. I am not concerned about that. Now he is asking substantially similar propositions, which presupposes that the witness is familiar with the exact phrasing with these preceding pamphlets.

Mr. Hillquit.—If your objection, Mr. Stanchfield, is to this particular form of the question I shall admit it is too general and shall specify.

Mr. Stanchfield.—I am trying to save time, but my objections do run to anything which is not purely historical and to which I have interposed no objection.

Mr. Hillquit.—I withdraw the question.

Q. I shall ask you now, Mr. Gerber, whether as executive secretary of the Socialist organization in the county of New York throughout the entire term of your office, which I understand aggregates twelve years, you have ever received from any candidate nominated for office in the Socialist party a resignation in advance. A. Never.

Mr. Stanchfield.—Wait a minute. I object to that as not cross examination, irrelevant and improper.

Mr. Hillquit.—Now there, Mr. Chairman, if you please —

The Chairman.—Objection sustained.

Mr. Hillquit.—I maintain my right to argue in opposition to it.

The Chairman.—I beg your pardon. Strike that out. Strike out all the record after the objection.

Mr. Hillquit.—I respectfully maintain, Mr. Chairman, that the question I have asked of the witness is not only pertinent but it is vital, and that I have an absolute right to ask it and ask it of this witness on cross examination. The contention here on the pleadings is that the Socialist Party exacts resignations, written resignations from any of its members that run for public office, and that such resignations are to be filed with the executive secretaries of the various local organizations. These five men, two of whom are within the jurisdiction and membership of the organization represented by this witness as executive secretary, have filed such resignations. Mr. Stanchfield has read this particular provision from the by-laws, these particular provisions,

and has offered them in evidence. What I propose to do is to show by this witness, who is the most competent witness on the subject, is that this provision in the State Constitution has been a dead letter since its inception, and of these five men neither of them have ever filed such resignations.

The Chairman.— The difficulty about that is, Mr. Hillquit, that Mr. Stanchfield did not attempt to show by this witness that such resignations were filed and you are too good a lawyer to think that you can cross-examine on something that has not been brought out on the examination. Now, you can show that by this witness when you come to your defense — I won't call it defense, but when you come to your examination. You are too good a lawyer not to know that it is incompetent at the present time.

Mr. Hillquit.— Mr. Chairman, permit me to return the compliment and to say that you are too good a lawyer to say that if the question is in the testimony, the other side, no matter by what name it is called, has a right to rebut that implication.

The Chairman.— There was no implication.

Mr. Hillquit.— What was it read for?

The Chairman.— I sustain the objection.

Mr. Hillquit.— I take an exception.

Q. I ask you, Mr. Gerber, whether all these constitutions which you have produced here in response to the subpoena served upon you were all adopted in conventions? A. Yes, sir.

Q. The National Constitution in the National Convention? A. Yes.

Q. The State Constitution in the State Convention? A. Yes.

Q. And the County Constitution in the County Convention? A. Yes, sir.

Q. And in every case were such conventions open to the public? A. Yes, sir.

Q. Were representatives of the press admitted? A. Yes, sir.

Q. Were the provisions of the different constitutions freely and frankly discussed? A. And distributed.

Q. And distributed? A. Yes, sir.

Q. And were all these constitutions printed in the Socialist newspapers? A. Yes, sir.

Q. And some in other papers? A. Yes.

Q. And were they publicly and openly circulated and distributed? A. Yes, sir.

Q. And have been ever since the inception of the Socialist Party? A. Yes, sir.

Q. With reference to any of the provisions of the three constitutions read by Mr. Stanchfield, will you say whether any of them has been adopted, say within the period of the last year? A. No, not within the period of the last year.

Q. Or the last two years? A. Two years, yes.

Q. Which one has been adopted within the period of two years? A. I think the latest one is the New York Committee organization by-laws. I think that was 1918.

Q. With reference to what? A. Oh, several changes were made.

Q. Were the changes among those mentioned or read by Mr. Stanchfield? A. No.

Q. Then with reference to those read by Mr. Stanchfield, no change of any kind was made in any of such provisions say within the last two years? A. No.

Q. And would you say within the last three years? A. Perhaps longer than that.

Q. Or longer than that? A. Yes.

Q. They have been substantially as they are now? A. Yes.

Q. Mr. Gerber, you also testified that you were Secretary of the organization which publishes the New York Call? A. Yes, sir.

Q. Are you Secretary of that organization by virtue of holding the office of secretary of local New York? A. No.

Q. Is the paper owned or controlled by the Socialist Party of the county of New York? A. It is not.

Q. Or of the State of New York? A. It is not.

Q. Or the National Party? A. It is not.

Q. You said, in reply to Mr. Stanchfield, that it was a membership organization? A. A membership corporation, as I understand it.

Q. What is it called? A. It is called "The Workingmen's Cooperative Publishing Association."

Q. Now, Mr. Gerber, you may be a better executive secretary than a lawyer; when you said "membership corporation," what did you mean by it? A. I meant it is an incorporated organization of members, instead of stockholders.

Q. Is it not incorporated under the Cooperative Corporation Law of the State of New York? A. Exactly.

Q. And each member is a stockholder? A. Yes, sir.

Q. The stock being the same in each case? A. No, it is not.

Q. That is, one member may have more shares? A. Yes.

Q. And the other less? A. Yes, sir.

Q. And is there not a provision in the law under which the organization is incorporated that each stockholder has the same vote regardless of the number of shares held by him? A. Yes.

Q. How are your members admitted to the corporation? A. Why, any member by application and paying five dollars.

Q. And do they hold meetings? A. Every three months.

Q. Do they elect officers? A. They do, once a year.

Q. Do they elect an editor in chief? A. The board of directors do that.

Q. The members elect the board of directors and the board of directors, in turn, elect the editor in chief? A. Yes.

Q. And also the business manager? A. Yes.

Q. Does it require the consent of the Socialist Party, locally or in the State or in the nation to validate the election of the board of directors of the Workingmen's Cooperative Publishing Association? A. It does not.

Q. Does the Socialist Party, locally, in the State or in the nation have the power to direct the policies of the editorial staff of the paper? A. They have not, except by suggestion, but no power.

Q. Is the matter referred to by Mr. Stanchfield under the heading of official Socialist Party news, matter which the party officially publishes in the columns of the Call? A. It is not.

Q. It is matter relating to official doings of the party as gathered by Call reporters? A. In most instances.

Q. Now, the Call is a Socialist paper, is it not? A. It is.

Q. It supports the Socialist Party? A. Yes, sir.

Q. Politically and otherwise? A. Yes, sir.

Q. And in that sense it is a party paper? A. Yes.

Q. But the party has no control of the Call? A. Not as an organization.

Q. Nor the Call of the party, is that correct? A. Absolutely.

Q. In other words, the relation between The Call and the Socialist Party is that of a newspaper supporting the policies, the campaigns and the general actions of the Socialist Party? A. Yes, sir.

Q. About so as the New York Tribune represents the Republican Party, except a little better? A. I was just going to say that.

Q. Now, Mr. Gerber, Mr. Stanchfield has read to you several provisions about propaganda to be carried on by the Socialist Party in some cases in conjunction with sub-committees for propaganda for women and so on. From your intimate knowledge of the character of the Socialist Party would you state whether the dues paying organization of the Socialist Party, as such, is purely a political party, or whether it is also an educational organization?

Mr. Stanchfield.— I object to that.

The Chairman.— Objection sustained.

Mr. Hillquit.— I take an exception.

The Chairman.— That is a matter of affirmative defense. Make the record read to say that it is a matter for the affirmative explanation on the part of the Assemblymen.

By Mr. Hillquit:

Q. Mr. Gerber, will you state whether the form of organization of the Socialist Party, the relation of the party to its elected officials, and reciprocally the relation of the elected officials to the Socialist Party, whether those arrangements antedate the adoption of the Primary Election Law in this State? A. They do.

Q. And since the adoption of this Constitution read by Mr. Stanchfield, and since the enactment of the Primary Election Law has the Socialist Party in the county of New York and in the State of New York, within your personal knowledge, complied with the Primary Election Law and its requirements? A. Every letter and spirit of it.

Mr. Stanchfield.— Wait a minute, Mr. Gerber. I object to that.

The Chairman.— Objection sustained.

Mr. Hillquit.— I take an exception, and at this time I may state that under the rulings of the Chair I do not know how we can proceed with anything like the semblance of the proceedings in the Supreme Court, as the rules provide.

The Chairman.—I am absolutely on the rule of the Supreme Court. Mr. Hillquit, this is a matter for you to prove affirmatively.

Mr. Hillquit.—But, Mr. Chairman, every defense must be proved affirmatively —

The Chairman.—Not by cross examination.

Mr. Hillquit.—And every defense is proved in two ways, by the cross examination and by the direct testimony, or certain examination of matter brought out directly or indirectly. Whether it contains a charge — that is the entire purpose of cross examination, otherwise I do not know what cross examination is for.

Now, Mr. Chairman, I do not want to demand any more than what I think is absolutely our duty. This witness is called to the stand. He is made to produce certain platforms of the Socialist Party and its various branches. He qualifies as a witness capable to testify on this platform. Mr. Stanchfield thereupon takes them up and reads certain provisions of these Constitutions which must be taken in connection with the charges; which must by all means imply an attempt to prove those charges, consequently what he attempts to imply by reading these provisions is perfectly clear to all of us. It is an attempt to prove that this organization is different from the other political parties. That it is not a political party. That it is an invisible secret organization. These are the charges made against us.

Now, this has been testified to by implication and through the mouth of this witness, and I submit it is my right, before the witness leaves the stand, to get his full testimony.

The Chairman.—I cannot agree with you. I will have to sustain the objection, but I want you to understand that as a matter of affirmative explanation the evidence will be allowed. I am strictly within the rule. That is the rule we use above the Bronx.

Mr. Hillquit.—Well, below the Bronx there is also a court which occasionally tries a case, and I want to submit this to you, Mr. Chairman. I want to do it now, because the objection is met with at the threshold of the proceedings, and may come up again and again.

The Chairman.—I expect it will.

Mr. Hillquit.— Then I want to make my position very clear about it.

I hold it is our absolute right. To let testimony go out day after day undefined, clear, and without a wrong implication — what we are doing now is to enter upon proceedings which will probably last for weeks, and day after day you gentlemen here of this Committee are the judges, and the members of the Assembly who will be our judges in the last instance, and I should say frankly to the gentlemen of the press, who are our judges today, the Court of Public Opinion, get every day some distorted notion of our position, without the right accorded us to correct it on the spot. I hold we have the right to do so, and I hold we have the right to correct anything which casts a wrong lie upon us, directly or indirectly, by direct charge or by implication, and that the time and place to do so is when such testimony is offered. You will tell us you may reserve all these for the affirmative defense.

The Chairman.— That is proper.

Mr. Hillquit.— That is, however, not a precept of Anglo-Saxon jurisdiction. I believe it does exist in some of the continents who recognize the old Roman jurisprudence and its principles, but not Anglo-Saxon jurisprudence. The entire object of cross examination, of the examination of the witnesses called by the other side is just this: to get the testimony on the spot at the time the witnesses testify at the behest of the opposite side, all the points in favor of the opponent, for there are such points, all latitudes, all explanations of every kind, and I respectfully submit if I have not such right the impression left the minds of these members of the Committee, after this witness leaves the stand, will not be the correct one, and it comes back three or four weeks later with the explanation of things that you gentlemen will have forgotten by that time,— after your opinion will have been formed upon sentiment created by one-sided testimony. That is not a fair and a proper proceeding, and that certainly does not come within the rules of evidence as generally recognized.

The Chairman.— I cannot change my ruling on that.

Here is another new proposition, something that relates as to whether they are living up to the Election Law.

Mr. Hillquit.— It is not. Perhaps I have not made myself clear. We are charged here with acting as a secret, insidious, invisible organization, manipulating our representatives as sort

of puppets in the interest of that secret organization. I am about to prove by this witness, the most competent of all witnesses on this point, that we are conducting our political affairs, electing our representatives, treating our representatives in every way as provided by the laws of the State of New York, and that those provisions to which learned counsel has referred were provisions adopted for different purposes at a different time and as far as practical politics have been concerned have been superseded by the Primary Election Law.

The Chairman.—The objection is sustained.

Mr. Hillquit.—And I take an exception. That is all.

By Mr. Stanchfield:

Q. Mr. Gerber, before you leave the stand, the paper I hand you, entitled "The New York Call," dated Friday, September 5, 1919, is a copy of the New York Call? A. Yes, sir.

Mr. Stanchfield.—I would like to have that marked for identification.

The Chairman.—It may be marked for identification.

(The paper entitled "The New York Call" of September 5, 1919, was marked Exhibit 6 for identification of this date.)

By Mr. Hillquit:

Q. Mr. Gerber, Mr. Stanchfield has read several provisions of the National Constitution. I take the liberty of reading section 9 of article 12 of the same constitution, to this effect: "Each National Federation"—meaning the foreign-language federation—"shall be entitled to elect one fraternal delegate to the National Conventions of the Party; provided, that such delegate shall have a voice, but no vote." You know that provision? A. I do, sir.

Mr. Hillquit.—That is all.

The Chairman.—That is all.

Mr. Hillquit.—Do you want to ask any more questions?

Mr. Stanchfield.—I want the witness to stay here, but I do not want him now.

Mr. Hillquit.— Mr. Block will read something from the New York County constitution.

Mr. Block.— This is the by-laws of the Socialist Party, New York County, which has been offered by Mr. Stanchfield; and I read from article 7, section 6. The article refers to standing committees and section 6 to a naturalization committee:

“ The Naturalization Committee shall consist of a Chairman elected by the Executive Committee and such assistants as may be appointed by the Chairman with the approval of the Executive Committee; it shall:

“(a) Maintain one or more naturalization bureaus in the County under supervision and with the approval of the Executive Committee.

“(b) Procure and keep on hand copies of the latest rules, statutes and decisions on naturalization.

“(c) Distribute printed instructions for the guidance of applicants for naturalization and aid applicants for naturalization in every possible way, and maintain a bureau for that purpose.

“(d) Make public propaganda for a more liberal naturalization law and a more liberal administration of existing statutes.”

Mr. Hillquit.— That is all, Mr. Gerber.

The Chairman.— Next witness.

FRANCIS M. HUGO, called as a witness and sworn, testified as follows

Direct Examination by Mr. Stanchfield:

Q. Mr. Hugo, are you the Secretary of State? A. Yes.

Q. Of the State of New York? A. Yes.

Q. And have been for how long? A. Since the 1st of January, 1915.

Q. I hand you a book entitled, upon the book: “ Oaths of Office, elective offices, 1917 to ———,” and ask you what the volume is? A. It is a volume of the oaths of office of the elective officials.

Q. And does it contain the oaths of office of the members of the Assembly? A. Yes, sir.

Q. For the current year? A. For the year 1920, yes.

Q. And for members that were elected in the fall of 1919?
A. 1919.

Q. To serve during the year 1920? A. Yes.

Q. Now, will you turn to the page that contains the oath of Samuel Orr? A. Yes, sir, page 254.

Q. And does the oath of Samuel Orr appear upon that page?
A. It does.

Q. And is that his signature? A. He signed that oath in my presence.

Q. He signed it in your presence? A. He did.

Mr. Stanchfield.— I offer it in evidence, but I am going to put into the record a copy, Mr. Hillquit. You may compare it, if you like. (Mr. Hillquit compares copy of oath with book referred to.)

Mr. Stanchfield.— I offer the original oath in evidence, if the Chairman pleases; but I am handing to the stenographer and am intending to mark, with the consent of Mr. Hillquit, a copy.

The Chairman.— It may be received and marked.

(Copy of oath of Samuel Orr received in evidence and marked Exhibit No. 7 of this date.)

By Mr. Stanchfield:

Q. Now, will you turn, Mr. Secretary, to the oath of Louis Waldman? A. Yes, sir.

Q. What page is that on? A. Page 276.

Q. And was that signed by Mr. Waldman? A. Signed by him in my presence.

Q. And sworn to before you? A. Yes.

Mr. Stanchfield.— I offer that in evidence and mark a similar copy, Mr. Hillquit.

Mr. Hillquit.— Very well.

The Chairman.— It may be received.

(Copy of oath of Louis Waldman received in evidence and marked Exhibit No. 8 of this date.)

By Mr. Stanchfield:

Q. Now, will you turn to the oath of office of Mr. August Claessens? A. Yes, page 267.

Q. And was that oath signed by Mr. Claessens? A. It was signed by Mr. Claessens in my presence.

Q. And sworn to before you? A. Sworn to in my presence, yes.

Mr. Stanchfield.— I offer a copy of that oath in evidence.

The Chairman.— It may be received.

Mr. Stanchfield.—And I am marking, conformably to Mr. Hillquit's consent, a copy.

(Copy of oath of August Claessens received in evidence and marked Exhibit No. 9 of this date.)

By Mr. Stanchfield:

Q. Will you turn to the oath of Charles Solomon next? A. Page 277.

Q. The oath of Mr. Charles Solomon appears on page 277? A. Yes.

Q. Was that signed and sworn to in your presence? A. It was.

Mr. Stanchfield.— I offer a copy in evidence.

The Chairman.— It may be received.

Mr. Stanchfield.— I will mark the copy, the same way.

(Copy of oath of Charles Solomon, referred to, received in evidence and marked Exhibit No. 10 of this date.)

By Mr. Stanchfield:

Q. Will you turn to the oath of Samuel A. deWitt? A. Yes, sir, page 247.

Q. And was that signed by Mr. deWitt and sworn to in your presence? A. It was, yes.

Mr. Stanchfield.— I offer that in evidence, Mr. Chairman.

The Chairman.— It may be received.

Mr. Stanchfield.— And I will mark, in the same way, the copy.

(Copy of oath of Samuel deWitt, referred to, received in evidence and marked Exhibit No. 11 of this date.)

Cross-examination by Mr. Hillquit:

Q. Mr. Hugo, will you please state whether the oaths signed by the five Socialist Assemblymen is exactly the same, and iden-

tical in form, as the oath of office signed by the other members of the Assembly? A. It is identical.

Q. And the oath was administered in the same way? A. Yes.

Q. And did you find any objection or hesitancy on the part of the five Socialist Assemblymen to signing this oath of office? A. None.

Mr. Hillquit.—Thank you.

Mr. Stanchfield.—You may take that book with you, Mr. Secretary. Very much obliged to you.

The Chairman.—Next witness.

(Conference.)

The Chairman.—Mr. Hillquit calls my attention to the fact that it is 12:30.

Mr. Stanchfield.—I am quite agreeable to adjourning.

Mr. Hillquit.—I did not call the Chair's attention to it until I was requested to.

The Chairman.—The hearing will stand adjourned until 2 o'clock.

Whereupon, at 12:31 P. M., a recess was taken until 2 P. M.

AFTER RECESS

(After Recess the Committee reconvened at 2 P. M.)

The Chairman.—Are there any members of the Assembly present who have not the opportunity of taking seats nearer the members of the Committee? Complaint has reached me that the spectators are occupying certain seats excluding the members. Now, if there are any members here in the back part of the room who desire seats nearer the Committee will they come forward and I will take care of them. It is very necessary that be done for the reason that the members of the Legislature are to pass on this evidence on the coming in of our report, and the men are doing the best they can to follow it, so I shall insist on the members having seats as near the Committee as possible.

Mr. Sutherland.— Mr. Chairman, there are a number of witnesses in attendance upon whom subpoenas duces tecum have been served requiring the production of books, documents, papers and so forth which may be pertinent to this inquiry. Counsel for the Committee suggests that these witnesses be called now, the books and documents produced and marked for identification, and then left with the Committee for examination during the recess after this hearing. If this is agreeable we will call those witnesses now.

The Chairman.— You may call the list of witnesses and have the documents produced. The Chair would suggest possibly they could be marked in the other room and not delay the proceeding here.

Mr. Sutherland.— There may be some question about the production of them, and we would rather have the witnesses called one by one and the documents produced.

Mr. Hillquit.— Mr. Chairman, we respectfully object to this proceeding. We insist upon the orderly custom and accepted procedure of witnesses being called, those under subpoena, and have documents produced right here in the presence of counsel for both sides.

Mr. Sutherland.— That was our intention, Mr. Chairman.

Mr. Hillquit.— Your intention is to call witnesses, have them produce documents, and mark them for identification, just for that purpose, and leave the documents in the custody of the Committee until they are introduced in evidence?

Mr. Sutherland.— Yes.

Mr. Hillquit.— That I strenuously object to. If a document is called for its admissibility or nonadmissibility is a matter for the Committee to determine, and we have the right, sir, to insist upon the exclusion of certain documents which we considered impertinent. In other words the effect of your motion, if granted, would be to have you offer a lot of proposed testimony to one side to be kept there for several days instead of having produced one by one, subject to the scrutiny of both sides in every case, and subject to objection if impertinent or immaterial, and subject to the ruling of the Chair in each instance.

Mr. Sutherland.—Mr. Chairman, it will save a great deal of time of this Committee and of the House, and of all parties concerned, if this procedure which has been suggested can be followed. There is certainly no impropriety in it. It is done every day in the year everywhere.

Mr. Hillquit.—I most respectfully submit that I do not know of a single precedent where it has been done. I want all the witnesses called, and I want all documents marked for identification, which I presume excludes our right to object to them if we consider them immaterial, or irrelevant, or improperly authenticated; then you want to leave them in the custody of the Committee in that condition, and without that right on our side to object to them.

Mr. Sutherland.—When we offer those documents in evidence then counsel certainly will have the opportunity to object; if they are not properly authenticated or proven they will not be received.

Mr. Stedman.—They should not be entitled to documents until they are ready to offer them. The idea of bringing in persons and taking possession of their documents for one side before it is determined they can ever be used is entirely improper in any investigating body or court proceeding.

The Chairman.—The Chair does not agree with you, Mr. Stedman. The ruling of the Chair is that the witnesses may be called, the documents produced and marked, but not referred to as a matter of record, nor their contents, and when the question of their admissibility comes up the Chair will rule.

Mr. Stedman.—Are they to keep the documents, or does this amount to an impounding order.

The Chairman.—They are to keep the documents.

Mr. Hillquit.—That would mean that if any of the documents belonging to these witnesses are absolutely improper for production here, and are the property of these witnesses perhaps necessary every day in their business, that in the meanwhile, and without passing upon the character of the documents, they will be taken from witnesses just upon the request of counsel for the Committee, taken from their custody and kept away from them for several days or weeks perhaps.

The Chairman.—That is the ruling of the Chair with the same privilege given to you with regard to the other witnesses.

Mr. Hillquit.— There is absolutely nothing analogous that we will ask.

The Chairman.— I think you will probably ask the same thing.

Mr. Hillquit.— We will never ask to subpoena any number of men and take away from them their documents, their instruments or their property, without the court passing upon the character of these documents and upon whether or not they are properly taken from them. I think it would be an absolutely unheard-of proceeding.

The Chairman.— The Chair will have to hold as stated. Proceed.

Mr. Sutherland.— Is Mrs. Anna Stern present?

Mrs. ANNA STERN, called as a witness, being duly sworn, testified as follows:

Direct examination by Mr. Sutherland:

Q. Where do you reside? A. In the Bronx, New York.

Q. Are you the executive secretary of the Bronx Local of the Socialist Party? A. I am.

Q. How long have you occupied that position? A. Since October of 1918.

Q. Were you served with a subpoena directing you to produce certain books, records, papers, cards, and so forth? A. I was.

Q. And have you produced the books, documents and papers called for by that subpoena? A. Those which I have in my possession.

Q. And where are they? A. I have them here.

Q. We would like to have them brought forth and marked for identification. Will you state just where you reside in the Bronx? A. 951 Sherman avenue.

Q. Yes. And where is your office? A. 1167 Boston road.

Q. Yes. Now, if you will be kind enough to state whether you produced here anything in the nature of a constitution of the Bronx County organization of which you are secretary. Have you a Constitution? A. I have here the by-laws of the organization.

Q. Yes. Can you state of your own knowledge that that is a correct copy of the by-laws of your local organization? A. It is.

Q. May we have this marked for identification?

(The paper was received and marked Exhibit No. 12 for Identification, of this date.)

Mr. Hillquit.— May I see the document before it is marked?

Mr. Sutherland.— Yes, certainly.

Mr. Hillquit.— We have no objection to this being marked in evidence.

Mr. Sutherland.— We are only marking it for identification now.

Q. Have you the records going back to the organization of your local here? A. Just what records do you mean?

Q. The secretary's minutes, the minutes showing the organization of your Local proceedings from that time on? A. I have.

Q. Will you produce whatever you have in that respect which is the first in point of time? A. This one.

Q. The book now produced is the first book of records which you have in your possession as secretary? A. Exactly.

Q. Do you know of any prior book? Have you heard of any other book? A. There never was another.

Q. Were you connected with this Local from its organization down? A. I was.

Q. And were you secretary from its formation? A. I was recording secretary.

Q. Recording secretary? Then it would have come under your duty to make a record yourself of any constitution or by-laws or fundamental principles on which your Local was founded? A. Exactly.

Q. And this is the first book of record containing — A. Yes.

Q. — containing those motions.

Mr. Sutherland.— May this be marked for identification?

Mr. Hillquit.— Pardon me. I wish to say to this witness, Mr. Chairman (addressing the witness), that you are not bound to part with the possession of this book unless it is offered in evidence, unless the Committee passes upon its admissibility and orders it offered in evidence. There is no law, I inform you, by which you can be compelled to part with the possession of this book merely to be marked for identification without a test of its relevancy and delivered over to this Committee or any other Committee.

Mr. Sutherland.—Mr. Chairman, I challenge the propriety and the soundness of the statement of counsel. All we are doing now is having this marked for identification.

Mr. Hillquit.—And keep possession of it.

Mr. Sutherland.—What becomes of it will be for this honorable Committee to decide. I ask that it be marked for identification.

The Chairman.—I can say in the marking of these papers for identification you may proceed. The point raised by Mr. Hillquit, allow me to suggest, this would apply not only to this particular document but to all the documents that are being brought here. I assume that you take the same attitude on all of them. Why not let them be marked and let that question come up and cover all the documents that are being brought? My object is, gentlemen, in avoiding a controversy over each one of these papers.

Mr. Hillquit.—Very well. Then my position will be perfectly clear when I say that we have no objection to the documents being marked in evidence and returned to the witnesses, but we know of no warrant in law by which this witness or any other witness can be deprived of her papers perhaps vitally necessary to the prosecution of her business before there is any adjudication on the part of this court that they are essential to this proceeding, relative to the proceeding in which this Committee has power to require that possession.

Mr. Sutherland.—Cannot the examination go on, Mr. Chairman?

Mr. Hillquit.—Well, you have made a certain offer.

Mr. Sutherland.—I am asking that this document which has just left the hand of the witness be marked for identification.

The Chairman.—That may be marked.

Mr. Sutherland.—So that there may be no question about the book we are talking about.

(The book was received and marked Exhibit No. 13 for Identification, of this date.)

Mr. Hillquit.—Has it been marked?

The Stenographer.—Yes.

Mr. Hillquit.— Now, Miss Stern, do you demand the possession of this book?

Mr. Sutherland.— I demand that the Chairman not permit such an impertinent interpolation here.

The Chairman.— The Chair suggests that we continue to mark for identification. Then I assume Mr. Hillquit will advise all these witnesses to refuse to deliver up the documents to the Committee. Then we can pass on the matter as a whole. Will that be agreeable?

Mr. Hillquit.— I don't think it will be right. I don't think that the witnesses should be compelled to part with the possession of the documents for one single instant, unless upon an examination of the particular document, and I say now that unless a ruling is made I shall instruct the witness not to deliver any documents or let them go out of their possession.

Mr. Stedman.— You have subpoenaed witnesses here from an association, or a co-operative society, served a subpoena to bring in documents. Now, a corporation or an individual may have rights separate and apart from any individuals who are affected by them. Let us assume you are serving a subpoena on a bank and you are asking them to bring in all their books. Obviously, if you are investigating the individual who had some transactions with that bank, you would not hold the entire books and records and papers of that bank in the possession of the individual, even as a witness, much less one or the other side to a controversy before a Committee.

If it is understood that you are bringing them for some purpose of identification, that may properly be done. Then they should go back to the bank, back to the company, back to the association, back to the individual; and that should be distinctly understood, until they are offered in evidence. Now, that is the proposition here, and obviously they would not have a right to take the papers away from 100 different persons who are in one association, and whose property does not belong to this witness, because these persons may or may not be affiliated directly or indirectly with those subordinate and subsidiary institutions.

The Chairman.— I shall be obliged to rule, then, if you desire a ruling right now, that where a document is brought before the Committee under the process of the Committee, that that docu-

ment must remain in the custody of the Committee until the Committee, after examination, decide whether or not they desire to place in evidence the document, or any part of it, as a component part of the evidence to be passed on finally by the Committee.

Mr. Sutherland.—Absolutely.

Mr. Hillquit.— Mr. Chairman, I desire to take an exception to your ruling, and I desire to state, on behalf of this witness and the witnesses to be called, that they cannot be compelled to deliver up any document for mere identification; that they cannot be compelled to produce any document unless they are offered in evidence and their competency passed upon in each instance, and they have the right to refuse to produce any document for identification or to turn them over to the custody of somebody else.

Assemblyman Evans.— Mr. Chairman, if this is the Committee's ruling, I desire to dissent from it.

Assemblyman Block.— So do I.

The Chairman.— The dissent of the Committee members will be noted.

By Mr. Sutherland:

Q. Now, Mrs. Stern, have you the volume of records, following Exhibit No. 13 for identification, following in order? A. May I, before I answer that question,—

Mr. Hillquit.— Pardon me.

Mr. Sutherland.— The Chair will doubtless extend to you any courtesy to which you may be entitled.

The Witness.— Mr. Chairman, there is no doubt in my mind that I will be parted from this evidence eventually. I want to ask a question: Have I the right to insist that my counsel, or the counsel of my organization, be present when these documents are examined?

Mr. Sutherland.— We have no objection to the presence of counsel.

The Chairman.— I cannot see any objection.

Mr. Hillquit.— That is not the point. The point is not what is involved in these documents, but the very important principle. The point is that this Committee have no power — and no judicial

committee has the power — to compel a person to part with his documents merely because a certain document is enumerated by the other side, without a test of its admissibility you cannot compel such witnesses to part with a document for an indefinite length of time.

Mr. Stedman.— And we wish to test that out.

Mr. Stanchfield.— Mr. Chairman, just a moment: it may be that the practice in Chicago is as Mr. Stedman states — of that I am ignorant — but it is very amazing that Mr. Hillquit should take the position that he does with reference to the proceedings either in the federal or the state courts of New York. Now, I pass a great deal of my lifetime in the court-rooms of New York City. It is a matter of everyday occurrence that under a subpoena duces tecum bank-books, corporation books, co-partnership books, all kinds of documents, are brought into court through the instrumentality of the subpoena duces tecum. The court directs that the books, the papers, the documents, be filed with the Clerk of the Court and marked for identification subject to the inspection and the examination of whomsoever pleases, at any time and under all circumstances. It is the ordinary, everyday practice that obtains in New York State. Now, one point more and I have done: at an earlier phase of this trial I took the position that the five Assemblymen and their counsel were here as a matter of grace and a matter of courtesy and a matter of favor; and you will recall, during the preliminary arguments of yesterday, that Mr. Stedman took occasion to say: "That statement of Mr. Stanchfield I challenge, and I will proceed to answer it." Did you hear any answer?

Now, there is no question about the proposition that this Committee would have the right to conduct this entire proceeding in camera. They could exclude the five Assemblymen under investigation; they could exclude their counsel, and the whole proceeding could be conducted to a conclusion in that way, if we saw fit to ask or urge you to do it and you saw fit to comply; but because we realize that we are going in this case, in the last analysis, to the court of public opinion — the people of the State — we are quite willing that these five men should be represented by counsel and that the ordinary rules of evidence in a general way should apply; but I submit, in answer to all the arguments that have been made that what is being done here is the ordinary practice in the courts of this State.

Mr. Hillquit.— May it please the Chair: the statement of Mr. Stanchfield, so often made, that the Committee is a law unto itself and all-powerful and not subject to any review; that counsel for the Assemblymen under charges, and the Assemblymen themselves, are here by courtesy or favor, on that statement I will say that as a proposition of physical power I am not finding any fault with it; but I want to say, and I want to have it understood, that we do not wish to appear here on sufferance or courtesy or by favor; that we either are here with all the rights of counsel in any court of justice, or before any tribunal, or we do not propose to be here. We will not be here so long as it suits the other side, and when you raise a point of substantial right and say: "You are here by courtesy anyhow, and if it does not suit you, it does not matter," gentlemen, I want you to make up your minds now that if you desire to curtail our rights and say that we are here on the courtesy of the Committee, we do not ask for such courtesy. On the point before you there is a vast difference, Mr. Stanchfield, between producing documents and placing them pending investigation, first having identified them and then for the purpose of further testimony or discussion as to their admissibility, filing them with the Clerk of the Court, and producing documents here and without any test of any kind, except in identification, placing them practically in the hands of the other side. There is a tremendous difference in that, all the more because there is not even a time limit within which such documents are to be restored to the witness. I, therefore, ask whether my learned friend agrees with me? I say to this witness that she has a legal right to say: "I refuse to produce the next book unless it is offered in evidence."

Mr. Sutherland.— Mr. Chairman, just one suggestion that I think will clear this air. Counsel is representing here five Assemblymen, the rights to whose seats in this body is in controversy. He is not here representing this witness at all. If the witness has any right to ask to have this book returned here, it is the right of the witness, and the right, perhaps, of the organization that she is secretary of, but there is no appearance for the witness by the gentleman who has been so earnest in advising her not to give the Committee the documents we are seeking to have produced. Now, whatever right there is of the witness to object is a purely personal right, and not a right which these five Assemblymen possess at all.

By Mr. Sutherland:

Q Now, madam, will you permit the Committee to have marked for identification the second volume of the records of your local?

Mr. Roe.— The Court has given me permission to address the Chair.

The Chairman.— Mr. Roe, is it?

Mr. Roe.— Yes, sir. Rule five of the rules under which we are proceeding is as follows:

“ The introduction of evidence, and the examination of witnesses and the conduct of the hearing shall be governed by the rules now prevailing in the Supreme Court of this State, except such other evidence and testimony may be received as the Chairman of the Committee may, in his discretion, permit.”

Of course, the last clause has nothing to do with the matter now under consideration. We are not talking about receiving matter in evidence, but about having it marked for identification, and if you will pardon the suggestion, sir, the proposition which is made here is in direct violation of this rule.

This honorable Committee sits here as triers of the fact so far as finding and reporting their opinion upon the evidence. As concerning the proposition which the counsel on the other side of the table are making it is nothing more than this: That in a trial before a jury they can subpoena documents into court and have them marked for identification, and turn over to the jury upon that to be held indefinitely.

Mr. Stanchfield.— To turn over to the clerk.

Mr. Roe.— No, no; to turn over to the Committee, the triers of fact in this case without their admissibility as evidence being passed on at all. Now, if that course is to be pursued the only thing to do is as each document is marked for identification, let the question of its admissibility be determined, because it is just as improper to turn over to the triers of fact in this case these documents. The admissibility of them is not going to be determined according to the theory suggested, as it is to turn over documents to a jury merely upon their being produced and marked for identification. I submit, sir, it is in plain violation of this

rule, and to go ahead in this Honorable Committee's presence and try this case upon the faith of this rule, that the introduction of evidence and the conduct of hearings shall be governed by the rules now prevailing in the Supreme Court of this State.

I cannot help feeling, sir, that every lawyer within the sound of my voice knows that the proposition proposed here from the other side is in violation of the most fundamental rule of evidence in the Supreme Court, and for my part I feel absolved from any duty to appear here if we are going forward with this kind of a proceeding in violation of the rules under which we entered upon this trial.

Mr. Stedman.— If I may say a word —

Mr. Stanchfield.— Let me make a suggestion. I do not want to waste the afternoon for that purpose.

Suppose we come to some understanding and take these books; you select a representative and we will take a representative and go through it in one of the rooms and mark what we want in evidence and you can put in the balance.

Mr. Stedman.— I think we ought to have a ruling on the proposition as it rests. I want to address myself for one moment. I want to say to counsel it is true that my experience in the courts of New York has been limited to at least one or two United States Courts, but it has not been though limited before Committees of the United States Senate carrying on investigations, nor before legislative Committees, nor before Courts in at least a half dozen to ten States of the United States.

I say that a Committee never in the world has existed from the United States Senate or the House investigating either a stock-yard combination, a banking or railroad combination, wherever they issued a blanket subpoena and said bring in all your books from the cashier's accounts, and the Board of Directors' records down to a bill of lading, and then we will take down and mark them and put them in a separate room, association or institution and pick out ultimately that which we wish to use. There is no incident of that kind. Now, then, when does a court of record—ordinarily, and I say frankly, that I am not certain about New York—they take the record and mark it and turn it over to the marshal or sheriff or bailiff, when they want that impounded. When it is offered in evidence it goes to the marshal, it goes to the clerk, or it goes to the sheriff. That is, when it is offered in evidence. Before that time this is what you do: Your Honor

please, I want it marked for identification, and the man that offers it takes it back or he hands it back to the opposite side and he never gets an order to impound except where there is clear and conclusive evidence that they may be removed from the jurisdiction of the court, and then only after it is admitted in evidence.

Mr. Sutherland.— We are willing to have the Sergeant-at-Arms have them in his physical possession.

Mr. Stedman.—After it is offered in evidence he is entitled to it. If you think there is danger of loss.

Mr. Hillquit.— I may suggest, however, in reply to Mr. Stanchfield's suggestion that we are perfectly willing to follow this procedure: mark whatever you please for identification, return the property to their owners, those that produce them, but we will arrange gladly for a conference with counsel on the other side to go over the documents and mark out such portions that are wanted in evidence.

Mr. Sutherland.— I am willing to come to any convention that will enable us to save time and saw wood here.

The Chairman.— The Chair is deeply grateful to counsel.

By Mr. Sutherland:

Q. Now, madam, is this the second volume in the course of time? A. Yes, sir.

Q. Is it complete from first to last or are there any portions that are missing? A. There are no portions that are missing that ever were in my possession.

Q. Was there ever an acting secretary during your term of office except yourself? A. No, sir.

Q. You have been the sole custodian of these minutes? A. Oh, you misunderstand me. I have not been the recording secretary since 1914.

Q. What is your present office in the local? A. My present office is the executive secretary of the Bronx county organization.

Q. Now, have you produced the minutes up to the present time? A. Yes, sir.

Q. The minutes of the meetings and proceedings of your local? A. Yes, sir.

Q. So that, in these two volumes we have the complete official record of your meetings, resolutions, by-laws and everything of

that nature from the foundation of your local up to the present time? A. Yes, sir.

Mr. Sutherland.—I would like to have this second volume marked for identification.

The Chairman.—It may be so marked.

Paper marked "Ex. 14 for Id., 1/22/20."

Q. What other documents do you produce? A. I haven't any others.

Q. Do these two volumes contain all of the records, constitutions, by-laws, minutes and record of proceedings of the local?

A. The constitution I handed you in a separate volume.

Q. That was marked by-laws? A. By-laws.

Q. Now, have you anything in the nature of a constitution other than by-laws that were contained in the printed book? A. No, sir.

Q. Have you on file in your local office any proclamations of the national or State bodies of your organization? A. Just one (producing printed paper).

Q. Is there a date on that, or anything by which we can tell when you received it? A. Received it?

Q. Yes. A. That was printed in the hundreds of thousands.

Q. I am trying to get the date of it. A. That is the manifesto of the Socialist party, adopted in convention in August, 1919.

Q. August, 1919? A. Yes, sir.

Q. And where was that convention held? A. Chicago.

Q. And this is a copy of the manifesto which you have kept in your files as secretary of your local?

Mr. Hillquit.—I object to that question. This witness is incompetent to testify whether this is a copy of the manifesto.

Q. Did this paper come into your hands as executive secretary and has it remained in your custody as such? A. It was a copy of what we received as a manifesto. We had it printed and distributed.

Q. As a local? A. As a part of the Socialist party.

Mr. Sutherland.—Now, we ask to have this marked for identification.

(The paper was received and marked No. 15 for identification.)

By Mr. Sutherland:

Q. Have you received any other communications from the State or national organization which you have here? A. No, sir.

Q. Have you any letters from officers of the National or State Socialistic Party of America? A. None, sir.

Q. As an officer, or to the local which you represent? A. No, sir.

Q. You have tried to obey the directions of this subpoena, have you? A. Exactly.

Q. And these two books and this manifesto are all that you produce? A. Together with the by-laws.

Mr. Sutherland.—Yes; and the by-laws. Now, under this arrangement which they have made, Mr. Chairman, they will go over this matter and it won't be necessary to call these other witnesses.

The Chairman.—Is that agreeable?

Mr. Hillquit.—That is entirely agreeable.

The Chairman.—Mr. Hillquit, you will have to have some representative.

Mr. Hillquit.—I have a very good one, sir.

Mr. Sutherland.—As to the jurisdiction of this Committee over these documents we don't want any question about that.

The Chairman.—The Chair holds that the Committee has jurisdiction over the documents. We have held that all along.

Mr. Hillquit.—The stipulation as I understood it, was that these documents after being marked for identification will be returned to the witnesses but will be submitted by them to counsel for both sides.

Mr. Stanchfield.—A representative from each side is to take these exhibits and go into an anteroom and mark such portions as we wish to read and then we can go over it and Mr. Hillquit can go over the balance.

Mr. Hillquit.—Yes.

Mr. Sutherland.—Why shouldn't the witnesses be called and the documents identified?

Mr. Stanchfield.— They should.

Mr. Hillquit.— Have we got a clear understanding; do we understand that we are voluntarily to go over the exhibits and mark such passages as we wish to offer in evidence? I understood also that the documents remain in the custody of the witnesses.

Mr. Stanchfield.— There is no question about that in my mind.

Mr. Hillquit.— There is no question in your mind?

Mr. Stanchfield.— We want to copy the portions we want to put in evidence.

The Chairman.— Unless there is cross-examination the witness is excused.

Mr. Hillquit.— No cross-examination so long as they are called just for the purpose of offering for identification.

The Chairman.— Call the next witness.

Mr. Sutherland.— Then, Mr. Chairman, the idea is that these witnesses will remain in the jurisdiction of the Committee subject to the call of the Committee.

Mr. Stanchfield.— I call Mr. Kauffmann.

EZRA L. KAUFFMANN, called as a witness, being duly sworn, testified as follows:

Direct-examination by Mr. Stanchfield:

Q. Mr. Kauffmann, where do you reside? A. Rochester, New York, sir.

Q. And what is your occupation? A. I am the special police attached to the Rochester police department.

Q. And have been for how long a period of time? A. Since 1906.

Q. I hand you a book printed in Hebrew which will be Exhibit 16 for identification so as to describe it. I hand the witness Exhibit 16. I am sorry my linguistic limitations prevent my reading it.

Mr. Hillquit.— I expected you would read it.

(The paper was received in evidence and marked Exhibit No. 16 for identification.)

By Mr. Stanchfield:

Q. And I ask you, Mr. Kauffmann, where you obtained that book? A. At 476 Clinton avenue North at the city of Rochester.

Q. And on what date? A. On the 9th day of December of the year of 1919.

Q. Now, from whom did you obtain it? A. I obtained it from a man named Samuel Miller.

Q. Now, at the time when you obtained it from him did you have any conversation with him? A. I did.

Q. What was it?

Mr. Hillquit.— I object to that conversation between the witness and Mr. Samuel Miller whom we do not know. What have you or I got to do with it, Mr. Stanchfield?

Mr. Stanchfield.— When you are ready to argue it, go ahead.

Mr. Hillquit.— I object to the question as calling for absolutely immaterial, irrelevant testimony not binding on anybody, upon the parties before this Committee, not in any way bearing upon the issues before you.

Mr. Stanchfield.— Of course, Mr. Chairman, if I don't later show that it has something to do with this investigation it would be ignored.

The Chairman.— Yes, if you gentlemen desire to discuss that.

Mr. Hillquit.— Very much so, Mr. Chairman.

The Chairman.— Make it as short as possible.

Mr. Hillquit.— We will make it as short as it is right, as short as is consistent with the importance of the proposition. I might mention just as well at this time that we are brought here on specific and definite charges. We have five definite concrete persons before you whose acts are questioned, whose office is involved and we are trying those charges against those five men. Now if there is any established rule in evidence which not only every lawyer but every layman, every child knows, it is that you cannot offer testimony against a person under charges, persons accused which comes from the mouth of a person unidentified, unknown, testimony as to conversations made in his absence. Why, where is the limit of what you will admit in this case?

Mr. Stedman.—Here is a man to all appearances a stranger to every person in this case; no indication that he is a member of a local, no indication that there was a meeting; no indication that there was any party here present. Supposing he told this man some one told him that some one else committed a murder? Obviously it would be improper. It isn't an act of that man carrying any document that they propose to connect up with this case. It isn't competent or direct evidence. In other words, to be competent evidence you must fix responsibility so closely allied to the persons under charges that he is in a position to deny or an associate is in a position to deny it or exclude the possibility of its truth or falseness, if it is false. We don't know the man who is going to dispute what he said. Supposing they want to offer testimony of some man on the street that said something against one of your committeemen and you were not there? It would not be competent against you and then in a proceeding you bring him up and say, "Did you talk with a man on the street?" "Yes." "Did he say anything against Mr. Stanchfield?" "Yes." He don't know anything about it. Is it admissible for anything or has it any probative value? Obviously none. I would be very pleased to hear from Mr. Stanchfield on what theory he places his suggestion that it be admitted.

Mr. Stanchfield.—In response to my eloquent and distinguished friend from the West let me suggest that he must have overlooked the fact that in the statement that was read by the Chairman of this Committee is the express charge that these five men here involved had been a party to a conspiracy to subvert our law and to overturn the government by force. Now, it is a fundamental rule in conspiracy, and we might as well have that explained upon the threshold that where two or more people, two or more corporations, be the number ever so large, begin to work along common lines for the accomplishment of a given purpose and the securement of a given design, the acts, the declarations, the words, the speeches, the conversations and the conduct of everyone charged to have been a party to that conspiracy, whether named or not named, whether near or remote, in this state or some other state, is admissible against the parties named in the conspiracy. Now that proposition is too clear for dispute. I haven't yet got into the connecting link because this document I am trying to prove is in Hebrew and I am quite unable to translate it. When these gentlemen say "who was

Miller?" and "what did he say?" that is the very nature of the testimony I am trying to elicit and I propose to follow this witness, if the Chairman is interested, by someone who has translated it and give us an intelligent idea of what the document is, but I cannot do that except in regular routine.

Mr. Stedman.— In reply to the distinguished gentleman whose consciousness of himself is never absent let me say that we are not charged here with conspiracy. There is no statement in the charge here that these persons have conspired together to overthrow by force a government of the United States. Much less if it were such a charge it would be necessary to name parties unknown in order to introduce the evidence of parties unknown and in which instance it would be necessary to describe the unknown parties in the indictment and their participation. Furthermore a confession or a statement of an outsider is never competent in a conspiracy case until there has been some evidence of the *prima facie* of existence of the conspiracy. There must be *prima facie* evidence of first a combination; second, knowledge; third, a given plan and purpose; fourth, that each one knew and had a consciousness of the purposes of the other. In other words, that each one of these men had in mind what — overthrowing the government? By what means? Physical force. Conscious knowledge of the fact that all others were participating in that given purpose. That is what must be proven. We are not here charged with a conspiracy. We are charged here with having certain views, certain objects, certain form of organization with which these men are affiliated which disqualifies them, or may disqualify them as members of this body. And even a confession by a defendant in a conspiracy case is incompetent, which the distinguished gentlemen is certainly conscious of. He must be at least when he forgets himself and he knows that and he knows that a confession is incompetent in a conspiracy case until proved and it has been introduced to establish it. But this is a new thing that we are now on trial for conspiracy. I suppose we will have another offense to-morrow morning.

Assemblyman Evans.— Mr. Chairman, has Mr. Stanchfield promised to connect Samuel Miller?

Mr. Stanchfield.— Certainly.

Mr. Stedman.— Then we are entitled to know beforehand the method of connection.

The Chairman.— Oh, no. I have to go back to the old law of Greenleaf on Evidence on that.

Mr. Stedman.— I am willing to take it, but you can introduce no evidence until outside evidence has been introduced establishing a *prima facie* case, and you will find in 122 Illinois, page 1, that is set forth, and you will find it in every United States case on the subject.

The Chairman.— If I understand the Pease case, which I have before me — that is what they call the Anarchist case?

Mr. Stedman.— Yes; I remember it well.

The Chairman.— It says that as regards some of the defendants there is no evidence, but they allowed all this to go in.

Mr. Stedman.— That is not the point I am urging. If you put witnesses on the stand that show that these men knew each other, that they agreed together, that they met together, not all at one time or one place, but two or more of them — and they published documents and advocated the overthrow of the government by force, you may then proceed to introduce evidence to establish that; but Judge Gary never was a lawyer to say: "You can drag a man in and say to him: 'Did you hear a conversation out there?'" No. The evidence shows that Parsons, Engels and the others were publishing a paper called "The Alarm"; that they were publishing speeches and that those speeches advocated the use of physical force; that Louis Lang used bombs; in other words, that there was a development of a conspiracy long before Dan Kauffman — and the evidence was introduced in the case. You can go to the United States Court case, which is the Lancaster case, and they have held that before you can put in evidence any outside statements you must put in some substantial evidence to show a conspiracy; and I have in mind the rule of law that ordinarily you must prove a conspiracy by substantiating evidence.

The Chairman.— Supposing they prove certain declarations and facts by this witness or by other witnesses in translating that document and fail to connect it up, how are you harmed?

Mr. Hillquit.— How are we harmed? Assuming that this witness is now allowed to state that Mr. Miller, who is to us unknown, has made the most aggravating statements against these five

defendants, assuming that goes on the record, assuming that poisons your minds and the minds of our prospective judges, and the minds of the public generally, assuming that is done, and what connection does Miller have with any of the defendants and the answer is: "Why, none at all; he is just a good fellow and he had an opinion." It is possible, Mr. Chairman, under this procedure, and I respectfully submit that if we are to have, as you have promised several times, a fair trial, this does —

Assemblyman Bloch.— Mr. Chairman, I do not like to interrupt the proceedings, but we have sat here in six sessions for the last three days, and at five of these six sessions we have been reminded by counsel for the five Assemblymen that we promised to give the gentlemen a fair trial. I do not like the repetition of that statement, because I do not believe in the sincerity of it. I believe the statement is only made to create an impression with the press that you are not getting a fair trial.

Mr. Hillquit.— Mr. Bloch —

Assemblyman Bloch.— Just a second. I wish you to refrain from making that statement.

Mr. Hillquit.— Mr. Bloch, what I am saying I am saying in absolute sincerity and solemnity. If this testimony and testimony of any similar kind is permitted, we have not a fair trial. We have a travesty on justice. Personally I should say that I should be very much reluctant to make myself a party to a farce of this kind. That is putting it strong and I weigh every word. I mean every word. If you, Mr. Bloch, as a lawyer, mean to say that you can parallel testimony of this kind, and witnesses coming to the stand and swearing he is a policeman and has spoken to one Miller, and then ask the question, "What did Mr. Miller say?" in a trial of which the loyalty of five members of the Assembly is involved, without even an attempted connection to this man and these five Assemblymen; if you mean to say that you, as a lawyer, would stand for testimony of this kind in a case affecting your client, I should like to hear you say so. I do not know of any such similar precedent.

The Chairman.— The Chair overrules the objection and gives you an exception.

Mr. Hillquit.— As far as I am concerned, and I think I speak for my associates, wherever testimony of this kind is called, we

shall take absolutely no part in the proceeding, and not dignify it by taking part in it. It is as if we were absent.

The Chairman.— Very well. Proceed.

By Mr. Stanchfield.

Q. Will you state what conversation you had with Mr. Miller?

A. I went to 476 Clinton avenue north and I asked Miller what his capacity was. He informed me that he was the superintendent of the building, and that he also was the literary agent there acting for the Jewish branch of the Old Socialist party, right wing, and that he sold the literature there and he obtained a commission from this branch for selling the literature.

Q. And did you purchase from him at that time the volume that I hand you? A. I did, yes.

Q. How much did you pay for it? A. Ten cents.

Mr. Stanchfield.— I offer it in evidence.

The Chairman.— It may be received.

(The booklet was received and marked Exhibit No. 16 in evidence of this date.)

(Assemblymen Evans and Bloch dissent from the opinion of the Chair.)

CHARLES M. ROBINTON, called as a witness, being duly sworn, testified as follows:

Direct examination by Mr. Stanchfield:

Q. Mr. Robinton, where do you reside? A. 30 East 128th street, New York City.

The Chairman.— Speak up louder. We cannot hear you; particularly the Assemblymen in the rear desire to hear.

By Assemblyman Cuvillier:

Q. What number? A. 30 East 128th street.

Q. What Assembly district is that? A. I could not tell you.

Q. You do not know? A. I do not know; I have only been there two months.

By Mr. Stanchfield:

Q. Are you familiar with the Hebrew language? A. Yes, the Jewish language.

Q. Are you familiar with the Hebrew language? A. Yes.

Q. Now, I hand you Exhibit No. 16 and ask you whether you had a pamphlet similar to that? A. Yes, I have it.

Q. Have you got it in your possession? A. Yes, sir.

Mr. Stanchfield.— I will mark the one you have for identification Exhibit 17.

Q. Now, Mr. Robinton — A. Yes, sir.

Q. You stated that you were familiar with the Hebrew language; are you able to read it? A. Yes, sir.

Q. Have you any connection with the Department of Justice of the United States government? A. I have had, sir.

Q. What connection? A. As a special agent and translator.

Q. And where or in what institution did you study Hebrew upon which you predicate your statement that you are able to translate it? A. I studied it at school and with private tutors.

Q. Now, did you translate certain portions, paragraphs and sections of Exhibit 17? A. Yes, sir.

Q. And have you the translation with you? A. Yes, sir.

Q. You did not translate as yet the whole of the volume? A. No, sir.

Q. And is the translation of the paragraphs and sections that you hold in your hand a correct translation of the original? A. Yes, sir.

Mr. Stanchfield.— I offer it in evidence.

Mr. Hillquit.— I object to that. The original, if I remember, is a document produced by Mr. Miller and described by him as having been circulated by some organization in Rochester. Neither any of the five Assemblymen in question is shown to have held membership in that organization; to have been aware of the existence or circulation of this booklet, nor is it shown that the Socialist party as such, National organization or State organization, had any complicity or connection with it. For all we know, this is a booklet and I do not know what its contents are. That has been published and circulated by a few persons absolutely unconnected with us; perhaps inimical to us, for whom at any rate we bear no responsibility of any kind; no connection is

shown between the author or the publishers or the circulators of this pamphlet and the five Assemblymen or the party they represent.

The Chairman.— The objection is overruled.

Mr. Hillquit.— I take an exception.

Mr. Stanchfield.— That will be marked Exhibit 18.

(The exhibit was marked No. 18 in evidence.)

By Mr. Stedman:

Q. Mr. Witness, have you read the book which was offered in evidence? A. I have, sir.

Q. The very one offered in evidence? A. I read an exact copy of it.

Q. Did you compare it with this? A. Yes.

Q. Will you turn to the red book that has been offered in evidence? Did you ever see that book before to-day? A. Yes.

Q. Did you compare that book with another book? A. Yes.

Q. You took this printed book and compared it with another printed book, did you? A. Yes, sir.

Q. And who compared it with you? A. Nobody.

Q. You turned it from page to page and compared one printed page with the printed page in the other book, did you? A. I looked at the title and whom it was published by.

Q. I am referring to the contents of the book. Did you ever compare the contents of the book with what you have in your hand? A. No.

Q. Then you do not know that that is a translation of that book, do you? A. It is the same title and it is the same book.

The Chairman.— I think I will allow the witness to proceed and you can cross-examine him.

Mr. Stedman.— I understood the right to cross-examine on a translation is before the translation is offered.

The Chairman.— I will receive it.

Mr. Stedman.— I want to show that is not a translation.

The Chairman.— They are both the same book.

Mr. Stedman.—Has the chairman read both books? The witness has not.

The Chairman.—You may proceed. You sit down.

Mr. Stedman.—Mr. Chairman, I sat down before you told me to.

Mr. Stanchfield.—It reads: "Published by the Jewish Socialist Federation of America, New York, 1920. Page 7, under chapter titled, "The Defenders of the Dictatorship of the Proletariat."

"Paragraph 1.—History teaches us, that through evolution, through natural developments alone, no ruling class in society has yet ever been deposed from its power. The feudal aristocracy which lost its importance in society in the 18th century, did not surrender its position good naturedly. It defended its position by force, with lead and iron. Workingmen cannot depend on 'peaceful evolution'; they must prepare for a revolution, and class-dictatorship."

Paragraph 3 — Same page.

"Socialism does not believe in the State. It wants to annihilate it entirely."

Page 8 — Same chapter.

"The Socialist movement rouses the workingmen to revolution, it preaches to them class-struggle, awakens within them class-consciousness, makes all necessary preparations for a Socialistic order. When society is ready for the overturn, when the socialist organization feels that the moment has come, it will make the revolution. To predict when and how this should be done, is impossible. This is a thing which must be determined separately in every country, because the circumstances in every country are different. No sooner than the revolution is made, however, the first aim of the Socialists must be to seize the government, the State, by whatever means they can succeed in doing this with and then their rule must establish the dictatorship of the Proletariat.

"This dictatorship will be employed for one thing, to eliminate capitalism by force, take away by force the capital

from private owners and transfer it to the ownership of the community. After this work is finished, there will remain nothing more for the dictatorship, for the proletarian State to do. The industries will then be managed by the workingmen, through their Soviets. The economic order will be carried out through the Soviets. Until now the State had a function, a task, to defend the ruling class against the oppressed classes. But now, when private ownership is entirely eliminated, the oppressed class will be the bourgeoisie, whom the dictatorship of the proletariat will dominate, and cause to entirely disappear, then what is the State needed for? There will be no more State, no more dictatorship. There will be only a Communist order, which will be managed by the workingmen themselves, that is by all the inhabitants of the country, through Soviets, or through some other similar system."

Page 14, under chapter titled, "The Dictatorship of the Proletariat in the Russian Revolution." "Russian Society is Now Socialistic."

Page 15, same chapter.

"It (the Bolshevik dictatorship) is the bone of the Socialist revolution, and must be established in every country, under all circumstances, when the Socialist revolution is established there."

Page 20. Under chapter titled, "The Socialists and the Democratic State."

"Consider the question, that so long as the state is an instrument, a tool in the hands of the bourgeoisie in the fight against the proletariat, so long as the state is the dictatorship of the bourgeoisie, then why do the Socialists seek to send their representatives there? Where do Socialists fit into the State? What can they do there?"

"Socialists seek to enter into the government for two reasons first, to be nearer to the doors of the chambers, where dictatorship sits, and second to hinder the dictatorial work in any way possible. The first reason is the most important. Sitting in Parliament or in Congress, being inside of the government ranks, affords Socialists an opportunity to find out the plans, the strategy of the State. And knowing this, they can carry out their propaganda the better."

“Socialists seek to be elected into the government principally for the sake of propaganda.”

Page 21. Under chapter titled, “The Socialist Movement After the War.”

“All the sacred verses, over which Socialists worried but little before the war, which were defined as pretty phrases, now become the creed, the soul of the movement. Once one could be a good member of the Socialist movement, even a distinguished leader, without knowing or thinking of the meaning of these verses. Now this is impossible.

“To the Socialist at present, the meaning of class struggle, INTERNATIONALE AND DICTATORSHIP OF THE PROLETARIAT, MUST BE CLEAR. He must understand that Socialism is (Page 22) not a reform movement. He must know, that Socialism is a Revolutionary world-perspective, and that the Socialist movement is a Revolutionary movement.”

Same page, same chapter, continued:

“The Socialist now must grasp accurately what the State is, what a Democracy is, and what his attitude as a Socialist must be to the State and to Democracy. He must cease to be a moral preacher, and become a fighter. He must know that the Socialist movement is a red movement, a movement with blood in the veins, which knows that nothing in life can be won without a struggle.”

Page 23. Under chapter titled, “The Socialist Movement After the War” (continued).

“The great task of the Socialist movement is to create an army in the country, which should be ready to make the Socialist revolution, when the suitable moment arrives. This army must know its aims, and the methods of attaining these aims. It must be an intelligent army, every soldier in it, must himself know the way, the plans, the strategy. The Socialist soldiers must (page 24) not be blind sheep under the command of a general. Such an army is good only in a fight for the darkness of reaction, not in a fight for light and freedom.

“At present it is not at all difficult to muster and instruct a Socialist army.”

Same page. End of chapter and book.

“And every Socialist in America, every one who attaches himself to this army in this country, needs only to look into the book of events and judge for himself if he has the correct idea, the right feelings and convictions that are required of the Socialist soldier.”

Q. Mr. Robinton, for the purpose of the record, did you follow the translation as I read it, in the book which you hold in your hand? A. Yes, sir.

Q. And was the translation correct? A. Yes, sir.

Q. What book did you hold in your hand? A. Exhibit 16, for identification.

Q. I hand you, Mr. Robinton, Exhibit 19, for identification, which has on the inside on the cover, in English, this —

Mr. Hillquit.— This is simply for purposes of identification — “Jewish Socialist Federation 175, East New York, N. Y.”

Mr. Hillquit.— It should be East Broadway, New York.

Mr. Stanchfield.— Mr. Hillquit says it should be East Broadway, New York.

(The paper just referred to by Mr. Stanchfield as Exhibit 19, for identification, is marked “Ex. 19 for Id. 1/22/20.”)

Q. I ask you, Mr. Robinton, whether you translated from the exhibit that I hand you certain paragraphs and sections? A. Yes, sir; I have.

Q. Now, I hand you five sheets of typewritten paper and ask you whether or not they constitute a translation of certain paragraphs and passages in Exhibit 19? A. Yes, sir; they do.

Mr. Block.— That is for identification, is it?

Mr. Stanchfield.— It is, Mr. Block.

Mr. Block.— Will you please refer to exhibits, when they are exhibits for identification, as an exhibit for identification as distinguished from an absolute exhibit?

Mr.— Stanchfield.— I intended to; didn't I?

Mr. Karlin.— It was not done until now.

Mr. Block.— Please refer to exhibits for identification as such until they are offered, proven and received in evidence.

Mr. Stanchfield.—I have tried to be scrupulously careful to properly term them.

Mr. Block.—I am afraid a false impression will go out.

Mr. Stanchfield.—If you will correct me at the moment, I will do it. If the record does not show that Exhibit 19 is an exhibit for identification it should show that Exhibit 19 is an exhibit for identification.

Q. Exhibit 19 for identification is in Hebrew, isn't it?
A. Yes, sir.

Q. With the exception of the English translation on the introductory page, to which your attention has been called? A. Yes, sir.

Q. Was the translation properly made? A. Yes, sir.

Mr. Stanchfield.—I will have the translation marked Exhibit 20 for identification.

(Translation marked Exhibit 20 for identification 1/22/20.)

The Attorney-General.—Mr. Chairman, in view of the necessity of the withdrawal at this time from the case of Mr. Littleton I beg to announce that I have been fortunate enough to secure the services of former Attorney-General Carmody, who will appear as counsel in this case from now on.

The Chairman.—Mr. Carmody's appearance will be noted. Was Senator Brown's appearance noted on the record this morning?

The Attorney-General.—That was noted, Mr. Chairman.

Mr. Sutherland.—Mr. Chairman, we offer in evidence at this time Exhibit 19 for identification, and the translation, or portions of it, Exhibit 20, for identification.

Mr. Hillquit.—We respectfully object to the introduction in evidence of both the alleged original and the alleged translation for the reason, first, that the original is in no way brought home to the five members now being tried before this Committee; no connection is established of any kind between them and the publication sought to be offered in evidence; for the further reason that the translation is partial, and I want to say at this time that the proceeding followed, offering a few passages, such as the

other side chooses to select, and giving the translation of only these passages where the original is in a foreign language, is a reprehensible and improper proceeding, and let me tell you why. It was illustrated in the former case where it was followed and I have been able — I say that by way of illustration only — to say now that the quotations given were not the utterances even of the author; that they were something that never would have been admitted if their true character had been known. They were not known. Now, if the original were in English we would at least have the right or the possibility of referring to other passages which would clear up the passages quoted or show them in their true light. Here we cannot. We cannot at this time because, in the first place, we are not presumed to know all languages, and in the second place, we haven't translations. If this practice is allowed to continue I think my friend could quote from the Bible in Hebrew or in any other languages about as thrilling things as he has quoted from the former pamphlet. We do not know whether they are the expressions of the author, whether they are expressions with which the author disagrees, as in the other case happened to be, or what they are. We, therefore, request that when evidence is offered in a foreign language that a complete translation of it accompany it and I object to this on the ground that it does not.

Mr. Stedman.—Do I understand that the translation offered here is only excerpts from the book?

Mr. Hillquit.— That is all.

The Chairman.— The chair overrules the objection and states to the gentlemen who represents the Assemblymen that the books are in evidence. A translator is available and any other portion of the books that you gentlemen desire to have translated for your benefit we will be glad to have taken care of, and you can read such portions of the book as you see fit.

Mr. Stedman.—You have a standing order that we would like the entire text translated and presented with the book. We ask that because it is obvious that taking a line from any book will lead to confusion and a misunderstanding as to what the author desired to convey.

The Chairman.— The only suggestion I would have to make about that, Mr. Stedman, would be the burden which you would

impose on the Committee being obliged to read a great deal of that book that possibly is not of any particular benefit.

Mr. Stedman.— I am not insisting that the Committee should read it, but I insist that I be permitted to read it, and I cannot read Hebrew. I am entitled to read the entire document, so I may perceive the bearing which one paragraph has upon the other. I cannot, from excerpts, either a line or a paragraph, judge the purport of the text.

Mr. Sutherland.— Mr. Chairman, I will try to furnish counsel with a complete translation. We think that is entirely fair and will try to meet that proposition.

The Chairman.— I wish you would.

Mr. Sutherland.— We will do it. Now, if I may read these extracts at this time, we will furnish the rest of the book. We think there is nothing in the rest of it.

The Chairman.— The only suggestion that I have about it is that the members of the Committee possibly would not want to read all the book.

Mr. Sutherland.— We think this is the important part, but we will read the book, if it is necessary.

This is "Bolshevism," by Dr. B. Hoffman, published by the Jewish Federation of New York, 1919 —

The Chairman.— I beg your pardon a moment. That book you are reading from now is properly in evidence?

Mr. Sutherland.— Yes, sir; the entire book is in evidence.

Mr. Hillquit.— Pardon me before we proceed. As I understand it, this evidence is admitted upon the promise to connect the publication with the five Assemblymen before you, or any of them?

Mr. Sutherland.— We think it will be connected in a general way with the organization to which these gentlemen have pledged fealty.

The Chairman.— If they do not connect all these different propositions up in their general scope, that is for the Committee to ascertain; when we come to decide, if we find that it in no way involves these gentlemen, why, how are you prejudiced?

Mr. Hillquit.—But there ought at least to be an implied promise to connect it with the five men. If we are told in advance that no effort will be made to connect this matter, then of course the matter is clearly inadmissible. I have asked, for the benefit of the Committee and ourselves, whether or not it is intended to connect these publications with the five Assemblymen, or any of them, and the answer does not seem to be direct. The answer was, it was intended to connect it in a general way with some organization, I believe.

Mr. Sutherland.—With the organization to which these gentlemen have pledged their fealty.

Mr. Hillquit.—The Socialist party of the United States or the Socialist party of the State of New York; is that it?

Mr. Sutherland.—This is published, apparently, by the Russian Association Federation, New York, 1919.

Mr. Hillquit.—Exactly. Our point is that there is not a word of evidence to show connection, membership, adherence or affiliation between these five men and this Jewish Federation.

Mr. Sutherland.—Yes. Counsel was very quick to note a mistake in the address of this printing office, Mr. Chairman.

The Chairman.—Never mind that. That is discussion of counsel.

Mr. Hillquit.—Counsel has some information.

Mr. Sutherland.—Yes. May I read, Mr. Chairman?

The Chairman.—If they don't connect it up, Mr. Hillquit, you certainly wouldn't be in danger.

Mr. Hillquit.—So the ruling of the Chair all this testimony is admitted upon the promise to connect up either with the five men or any of them or with the organization to which they owe fealty, namely, the Socialist party of the United States or the Socialist party of the State of New York.

Mr. Sutherland.—The organization, Mr. Chairman, will certainly be shown to be connected with this proposition.

The Chairman.—Well, proceed to the evidence and we will be the judges of whether it is connected up or not. Why not let it come up like that?

Mr. Hillquit.— Well, I can sit down.

Mr. Sutherland.— Now, from pages 3 and 4:

“ Under chapter one, entitled ‘ Who are the Bolsheviks ? ’

“ ‘ Bolshevik ’ in Russian means a member or adherent of the majority. This name takes its origin from the Russian Social-Democratic Convention, which was held at Stockholm in 1903. The delegates of the convention divided on the question as to who could be considered as a member of the Socialist party in Russia. Lenine came out for very strict control by the Central Committee of the party. Lenine’s formula was that the hands of the Central Committee should be able to reach every individual member of the party. Martoff was against such exaggerated control and against such forceful centralization. The majority of the convention agreed with Lenine and the majority was named ‘ Bolsheviks ’ and the minority ‘ Mensheviks. ’ The name, however, remained afterwards, when Lenine with his adherents were left in the minority and Martoff with his followers won over to their side the majority.

“ The meaning of the diversity in the Russian Social-Democratic party, which was called out on account of the mentioned organization question, developed gradually, and two distinctly outspoken opposing points relating to the problems of the Russian revolution in general and how the revolution must be prepared and conducted. The meaning of the diversity sharpened during the first Russian revolution in 1905 and became still sharper after the first Russian revolution was subdued.

“ The Bolsheviks had the majority but one; that was, as already stated, at the Stockholm Convention. Afterwards they were always in the minority, and when the revolution broke out in Russia in March, 1917, the Bolsheviks played a most significant role, the leading role having been played by the socialist revolutionaries and the Mensheviks.

“ However, the situation began to change rapidly. The Bolsheviks began gaining more influence, and within four months after the beginning of the Russian revolution, in the month of July the Bolsheviks made an attempt to capture the power of government.”

He says on page 11, “ Chapter 2, entitled, ‘ What is Bolshevism ? ’ ”

"Bolshevism is not a new Socialist theory, but the practical carrying out in life of the old Socialist theory.

Bolshevism especially is not a theory. Bolshevism is a method of how to establish Socialism in life.

Bolshevism is practical Socialism, the Socialism of to-day, and not of the remote future day.

All Socialists believe that Socialism must come and must be established. Even the Bourgeoisie began believing this. Now the question is: When must Socialism come, and when can it be established in life?"

Page 14, chapter 2, entitled "Who are the Bolsheviks?"

"But Lenin says about these careful Socialists as follows: 'The great Russian revolutionist Chernishevsky once said: Political activity is not as smooth as the sidewalks on Nevsky Prospect. One is not the revolutionist who wants to have the revolution of the proletariat on the condition that it should be carried out smoothly and in complete order. As a guarantee against defeat he must be advised in advance that he can be sure, that the revolution will go forward in the broad, free, even road to victory, and that it should not be necessary anywhere to make heavy "victims."'"

(A letter to American Workingmen from N. Lenin.)

"It would indeed be small heroism to make a revolution having in advance a sure guarantee that it will be crowned with success. For that it is not necessary to be a revolution. But since a revolution is bound up with a risky undertaking, which can as suddenly end in defeat as in victory there must therefore be revolutionists for it, who have courage, boldness, and self-sacrifice."

Page 15, chapter 2.

"It must take time until the capitalistic society is smashed and torn up by root, and it must take time till the Socialist Society order is built up and organized. But in order to smash the old order and begin to build the new, must be had first of all, that the power of government should find itself in the hands of the proletariat. This is the first great, important step on the way to realization of Socialism."

Page 16, Chapter No. 2:

"Bolshevism desires to establish socialism by a revolutionary route, through the dictatorship of the proletariat.

Their object is not only to carry out a social revolution in Russia alone, but also in other countries, so they will do the same as the Russian proletariat. The more such revolution spreads over other countries, the easier and quicker will it be to establish socialism.

Bolshevism laid the foundation of socialism in Russia. It established the rule of the Proletariat in Russia."

Page 68, Chapter 6, entitled, "Bolshevism and Democracy."

"Is Bolshevism democratic? Does the Bolshevik revolution and the Bolshevik actions agree with the accepted maxims of democracy? No, they do not. But what revolution does agree with the maxims of democracy? A revolution is an act of violence, and is almost always carried out by an organized resolute minority. No revolution is decided by referendum, and no revolution is parliamentary democratically lawful.

The Bolsheviki employed acts of violence in their revolution, that surely is not democratic. But how can a revolution be made without acts of violence?"

Page 67, Chapter 6, "Bolshevism and Democracy."

"If it was permissible to overthrow the Czar by violence, then why is not permissible to overthrow the gentlemen and bunkers by violence?"

Revolution is war, civil war, one class wars on the other for power, and as surely as a war cannot be conducted on sound democratic maxims, neither can a revolution be conducted in a democratic manner. And the revolution in Russia has not ended yet.

The class struggle in time of revolution, says Lenine, has always assumed the inevitable form of a civil war, and a civil war is unthinkable without destruction, without terror and without the limitation of democracy. One would have to be a sickly sentimentalist not to understand or comprehend this.

The bourgeoisie of International Imperialism has killed off ten million humans, and made cripples of twenty millions in her present war, but should the war of the proletariat, the war of the oppressed and the exploited against the oppressors and exploiters cost a half million victims in (page 68) all countries, the bourgeoisie will say that the victims of the world war died a just death, but that the fallen

in the civil war of the revolution were sacrificed as victims of a crime.

Dictatorship and democracy cannot agree. Dictatorship is the antithesis of democracy. If Marx and later Plechanoff spoke of the necessity of the dictatorship of the proletariat to establish socialism, they could not have meant that such dictatorship should be established through the available democratic bourgeois methods, as for example give a referendum vote to the people whether they want to have a dictatorship of the proletariat or not. That would be no dictatorship, but a parliamentary mandate."

"When we speak of a dictatorship, we understand that it deals (page 69) with seizing the power by force and to seize power by force, we know is not democratic. But neither Marx or Plechanoff or other Socialist theorists have ever feared to commit this thing against democracy. They never beheld in democracy an idol which had to be bowed to at all times. They considered democracy not an end but a means through which the proletariat could come into power. But when this means refuses to serve, another means must be sought to attain the object."

Page 70, chapter 6 — "Bolshevism and Democracy."

"It surely would be better for the proletariat if it could take the power into its hands through democratic ways and means. The proletarian revolution would then be established with a much smaller number of victims, but not always are the conditions for the proletariat so favorable that they can avail themselves only of democracy."

Page 79 — The conclusion.

"For the first time in the history of humanity, have the people, the real majority of the people, secured the ruling power. For the first time in the world history have the work-masses cast from themselves the yoke of their exploiters and become their own rulers, and their own law makers, and there is no longer any power on earth that could again enslave these emancipated popular masses of workers. It is possible that rifles, bayonets and cannon, the world bourgeoisie may for a while wrest the ruling power from the hands of the workers, and hand it back to the Russian bourgeoisie, but it can only do it for a while. A new revolution with still more

might and power will at once rise and will clean up like a mighty cyclone the bourgeoisie rule from the whole world, not only from Russia alone."

Mr. Stanchfield.—That is all of this witness. Did you wish to ask him anything?

Cross-examination by Mr. Hillquit:

Q. Where do you say you resided? A. 30 East 128th street.

Q. New York City? A. Yes, sir.

Q. How long have you been in the service of the Department of Justice? A. Since May, 1918.

Q. And has it been your special function in the Department to watch Socialist activities? A. Not my special function, no.

Q. But has it been one of your tasks, among others? A. At times.

Q. Has it been at the time you secured these pamphlets? A. No, not these that you have right here.

Q. The two pamphlets or only one? A. I did not secure those at this time, no. I did not secure those at all.

Q. You did not secure those at all? A. No.

Q. Didn't you secure the first pamphlet marked Exhibit 17? A. I did not secure it personally.

Q. You did not secure it personally? A. No, sir.

Q. Who secured it? A. I do not know.

Q. Who gave it to you? A. It was given to me to translate.

Q. By whom? A. By the Assistant Chief Investigator.

Q. Of the Department of Justice? A. No, sir.

Q. Of what? A. Of the joint Legislative Committee investigating it.

Mr. Stedman.—A little louder, please.

Q. Of the Joint Legislative Investigating Committee? A. Yes, sir.

Q. You mean the Lusk Committee? A. That is the name it is known by.

Q. What did that Mr. Miller have to do with it? A. I do not know. I do not know Mr. Miller.

Q. What was the name of the man to whose conversation you testified? A. I did not testify to any conversation.

Mr. Stanchfield.—You have got him mixed up with Mr. Kauffmann.

Mr. Hillquit.— I beg your pardon. I withdraw it.

By Mr. Hillquit:

Q. Then all you know, it was handed to you for translation?

A. That is all, sir.

Q. Just handed to you by the Lusk Committee? A. One of the members.

Q. Have you been in the service of that Lusk Committee?

A. I have.

Q. At the time? A. Yes, sir.

Q. And were you told to translate the whole thing or only such passages as to you seemed incriminating? A. I was not told anything about it.

Q. Well, what were you told when you got the booklet? A. Just simply to look it over. I used my own judgment as to —

Q. As to what? A. As to translating what was vital.

Q. As to translating what was vital, for what purpose? A. For the purpose of submitting it as evidence.

Q. For the purpose of submitting as evidence against whom?

A. Against Socialism.

Q. Against Socialism. Then you were given this pamphlet by a representative of the Lusk Committee with the general direction to translate such portions as would serve as evidence against Socialism? A. Yes, sir.

Q. Were you also asked to translate such portions as might appear to be favorable to Socialism? A. I was not asked to translate any particular portions. No portions were designated.

Q. But the general character of the material sought was designated, was it not? A. I had not been given any instructions on that, though.

Q. Well, you translated certain portions only? A. I did.

Q. And you did not translate other portions? A. That is right.

Q. By what were you guided about the choice of portions that you did translate? A. I was guided by my own judgment.

Q. As to what? A. As to Socialism as it preaches violence.

Q. Then you were looking for such portions as would support the contention that Socialism preaches violence, is that it? A. Absolutely.

Q. And if there should have been portions in this booklet which would prove the contrary, were you to translate those? A. Yes, I would if it were necessary to use it.

Q. If it was necessary to use it? A. Yes, sir.

Q. You mean necessary to use for what purpose? A. For any purposes whatever that it might be required for.

Q. Now, will you please state whether when the booklet was handed to you you were told to translate such portions as would indicate that the Socialist movement preaches violence? A. I have stated before, Mr. Hillquit, I was not told to translate such portions; that I used my own judgment.

Q. Now, on the assumption that the Lusk Committee wanted that? A. Exactly.

Q. Now, I show you again Exhibit 17 and I ask you what does it represent — just a booklet? A. Exactly.

Q. Is the name of the author given? A. It is.

Q. What is his name? A. His name is Rogoff.

Q. Do you know whether this author is an official of the National party — Socialist party? A. That I do not personally know.

Q. You do not know him at all? A. No, sir.

Q. You do not know even whether he is a member of the Socialist party, do you? A. No, sir.

Q. All you know is that he wrote this booklet, is that correct? A. Yes.

Q. And that the booklet was published by the Jewish Socialist Federation? A. Exactly.

Q. Did you go over the list of all books published by the Jewish Socialist Federation? A. No, sir.

Q. Do you know whether or not the Jewish Socialist Federation also published books of opposite import to this particular one? A. No, sir, I do not know it.

Q. You cannot state whether or not the Jewish Socialist Federation is engaged in the publication of a booklet on sociological topics from any and all points of view, can you? A. No, sir.

Q. Can you state whether or not there is anything in this booklet to show that the Jewish Socialist Federation subscribes to the views here announced other than the fact that it publishes the book? A. No, I do not. All I know is that they publish the book.

Q. That is all you know? A. Exactly.

Q. Is there any indication in the book that its views were approved or accepted by the Socialist party of the United States or of the State of New York or of the county of New York or of the county of the Bronx or of the county of Kings? A. Not in the book, no.

Q. Is there any reference in this book to any of the five Assemblymen here under charges? A. Not that I know of.

Q. Are their views in any way expressed? A. I don't know what their views are.

Q. You do not know? A. No.

Q. Then all you do know is that a certain man by the name of Rogoff, whom you do not know, has written this book? A. Yes, right.

Q. That is correct? A. Yes.

Q. And that it was published by the Jewish Socialist Federation? A. Exactly.

Q. You have read all of the book, have you? A. I have.

Q. What is the nature of the entire work, the entire book? What does it purpose to do?

Mr. Stanchfield.— Well, I object to that. The book is the best evidence. We are going to furnish them with a translation of it.

Mr. Hillquit.— I will modify the question and ask you this, Mr. Robinton?

Q. Is it not a fact that this booklet on the whole is a discussion of certain current Socialist theories, among other things the so-called theory of the dictatorship of the proletariat against the theory of popular democracy?

Mr. Stanchfield.— I object to that, Mr. Chairman. The book speaks for itself.

Mr. Hillquit.— The book does not speak for itself.

The Chairman.— I am afraid you are trying to substitute the conclusion of the witness for the conclusion of the Committee. The Committee may agree with you on it.

Mr. Hillquit.— What I am trying to bring out now is this: I am trying to bring out that the portions quoted by this witness and read by Mr. Stanchfield are not even the expression of the opinion of the unknown author, but they are a recital by him of the views held by him one way and another way.

The Chairman.— You are translating the book and have it in evidence?

Mr. Hillquit.— Yes, but we have an expert here who has made certain statements and read certain excerpts and it is very perti-

nent to find out from him by way of admission, if necessary, whether or not those excerpts were taken for a designated purpose and conform to the actual contents and purport of the book.

The Chairman.— Oh, that is not the idea. He is an expert as to saying just what the words in there mean in English. He is not an expert as to what the book concludes. We are a better judge of that than he is.

Mr. Hillquit.— I am not asking about conclusions. I will make it quite clear. I will ask you to read this line and translate it.

The Chairman.— That is perfectly proper, anything you would like to have.

Mr. Hillquit.— Thank you.

By Mr. Hillquit:

Q. This line (indicating). A. Do you mean just one line?

Q. Yes. A. "And the whole thing fundamentally could —

Q. The headline I have indicated. A. Pardon me, I made a mistake. "The Opponents to the Dictatorship of the Proletariat."

Q. That is the headline of the caption which reads "The Opponents of the Dictatorship of the Proletariat." Is that correct?

A. Correct.

Q. Then I will ask you to read this headline (indicating).

A. "The Defenders of the Proletariat."

Q. "The Defenders of the Proletariat?" A. Yes.

Q. So there is one chapter headed "The Opponents of the Proletariat" and another chapter headed "The Defenders of the Proletariat"? A. Yes.

The Chairman.— In other words, you have both sides of it in this book? You can pick your choice?

Mr. Hillquit.— Oh, we have taken it.

Mr. Hillquit.— Now it is a fact that is what you have translated to us under the heading "The Defenders of the Dictatorship of the Proletariat," is that correct?

A. Would you mind repeating the question again.

(The question was read by the stenographer).

The Witness.— Yes.

Mr. Hillquit.— Then all you have given us was from that portion of the book which deals with the views of the Defenders of the Dictatorship of the Proletariat? A. Yes.

Q. Is it a fact that the author mentions a summarization of views of both sides, those who are opposed to the dictatorship of the proletariat and those who favor it?

Mr. Stanchfield.— I object to that on the same grounds as to the preceding question if the Committee please.

The Chairman.— What is the question?

(The question was then read by the stenographer).

The Chairman.— Objection overruled.

Mr. Hillquit.— Answer the question please.

The Witness.— Yes, it is.

Q. Then this booklet does summarize the views on both sides but you have translated only the portion which deals with the support of the dictatorship of the proletariat? A. Yes, but do you want my reason why Mr. Hillquit?

Mr. Hillquit.—I do not.

The Witness.—All right.

Mr. Hillquit.—For the time being I shall ask you this. Will you please read and translate this paragraph?

The Chairman.— Now, this paragraph conveys to us nothing. In the minutes indicate paragraph so and so on page so and so.

Mr. Sutherland.—We will have the entire translation here at the next session.

The Chairman.—He is cross examining him.

Mr. Hillquit.—The fourth paragraph on page 5.

The Witness.—Do you want all this?

Mr. Hillquit.—Just this.

The Witness.—(Reading)—“ The opponents held that the most sacred ”—just a moment. “ The opponents held that the most sacred thing as obstructing the principles of democracy and dictatorship is the exact opposite of democracy. It is unclean; it is filthy.”

Mr. Hillquit.—“They held that since the dictatorship of the proletariat was the exact opposite of democracy, of sacred democracy, therefore the dictatorship of the proletariat was unclean and filthy.” That is about the translation is it?

The Witness.—Exactly.

Mr. Hillquit.—Now, this was first marked with blue pencil lines and then the blue pencil lines were crossed out?

The Witness.—Exactly.

By Mr. Hillquit:

Q. Were they marked by you? A. By me.

Q. Why did you cross them out? A. Because I decided not to put that in unless the whole book was translated.

Q. Unless the whole book was translated. But you thought that it was proper to translate other portions, although the entire book was not translated, didn't you? A. Yes.

Q. And those were the portions which recited the views in support of the dictatorship of the proletariat; is that correct? A. Yes.

Assemblyman Blodgett.—May we have the stenographer read what the witness translated?

Mr. Stedman.—Will you read the translation? It was not heard.

(The questions and answers were then read by the stenographer.)

Mr. Hillquit.—You said you made the translations in the service of the Lusk committee?

The Witness.—Yes.

By Mr. Hillquit:

Q. And for the information of the Lusk Committee? A. Yes.

Q. And the Lusk Committee was a Joint Legislative Committee to investigate into radical activities in the State of New York? A. As I understand it.

Q. And did you think the Lusk Committee was not interested in both sides of the proposition? A. I was not interested; I was not drawing any conclusions on that at all.

Q. You were not drawing any conclusions on that at all? A. No, sir.

Q. But didn't you proceed on the assumption that a certain side had value for your employers and another side had not, and wasn't that the reason you stated one side? A. I considered the object of the author of that book.

Q. You have translated it for the Lusk Committee, haven't you? A. Yes.

Q. And were you to do any more than to translate certain portions of a book in your discretion as you stated before, and to turn it over to this committee? A. Yes.

Q. That is all you were to do? A. Yes.

Mr. Hillquit.— That is all.

Mr. Stanchfield.— That is all, Mr. Robinson.

Q. I now turn to exhibit 19, booklet entitled "In Translation", book "What is Bolshevism", and I will ask you who is the author of this book? A. Dr. B. Hoffman.

Q. How do you know he is a doctor? A. Says so right there.

Q. That is the only reason you know he is a doctor? A. Exactly.

Q. Do you know him personally? A. I do not.

Q. Do you know whether he occupies any official position in the party? A. I do not.

Q. Do you know whether he is a member of the Socialist party? A. I do not.

Q. Know whether he is at all acquainted with the five members of the Assembly under charges or any of them? A. I do not.

Q. All you know is that it is a certain Dr. Hoffman who is the author of this booklet? A. He may be; it says so; that's all.

Q. You even don't know whether he really is, or exists, except that it says by Dr. Hoffman? A. Exactly.

Q. And was that booklet handed to you in the same way as the former booklet? A. Yes, sir.

Q. For the same purpose, as you understood it? A. Yes.

Q. And did you apply the same method? A. Yes.

Q. This is a booklet dealing with the subject of Bolshevism, is it not? A. It is.

Q. Are you at all familiar with the literature on that subject? A. I am.

Q. Do you know that many volumes have been written in opposition as well as in defense of Bolshevism? A. Suppose so.

Q. In all languages including English? A. I suppose so.

Q. And this is one of the booklets which is rather favorable to Bolshevism, isn't it? A. Yes.

Q. It is? A. Yes.

Q. Why did you select this particular booklet, written by an unknown person, on that subject, if you could have secured a great many volumes in the public libraries in direct, good English, which Mr. Stanchfield could read? A. I did not select this.

Q. It was handed to you? A. Exactly.

Q. For translation? A. Exactly.

Q. And you don't know why just this booklet was chosen? A. No.

Q. Nor its connection in any way with the Socialist party? A. No.

Q. Is there anything contained in this book which refers to the attitude of the Socialist party toward Bolshevism? A. As I understand it that calls Bolshevism Socialism.

Q. That is the view of the author? A. Exactly.

Q. Now, I am not asking this—I am asking is there any passage in this book purporting to give the official attitude of the Socialist party of the United States toward Bolshevism? A. This book explains what Bolshevism.

Q. No, no, pardon me; please answer the question; is there any such passage in the book purporting to give the official attitude of the Socialist party toward Bolshevism? A. Not that I know.

Q. You have read the book? A. I have.

Q. And when you say not that I know of, there is none, no such reference. A. I won't say there is not.

Q. You didn't notice any? A. No.

Q. Or any reference to the attitude of the Socialist party of the State of New York toward Bolshevism? A. Doesn't mention the Socialist party of the State of New York in this discourse.

Q. Or the Socialist party of the County of New York, or the County of Bronx, or the County of Kings? A. No.

Q. Does it mention any statement or any declaration of any of the five Assemblymen here on the subject of Bolshevism? A. No it does not.

Q. All it does is to give the views of a Dr. Hoffman, whom we don't know, on the subject of Bolshevism, is that correct? A. Correct.

Mr. Hillquit.—Now, if it please the Chairman of the Committee, I now move to strike out both booklets marked in evidence as Exhibits 17 and 19, respectively, for the reason that it now affirmatively appears that they are absolutely and entirely irrelevant and have no connection whatever with the Assemblymen

charged, the departments represented by them or with anything connected with those proceedings.

The Chairman.— Overruled.

Mr. Hillquit.— I take an exception.

WILLIAM F. SMART, called as a witness, and sworn, testified as follows:

Direct-examination by Mr. Stanchfield:

Q. Mr. Smart, where do you reside? A. Hotel Endicott, New York City.

Q. And what is your occupation? A. I am a certified shorthand reporter of New York State.

Q. And where is your place of business? A. 150 Nassau street, New York City.

Q. Now, on the 7th of November, 1919, did you attend a meeting of the Socialist party of New York to celebrate the second anniversary of the Russian Soviet Republic, held at Park View Palace, 110th street and Fifth avenue? A. I did.

Mr. Hillquit.— I move to strike out that portion of the question which purports to give the object of the meeting. I object to that portion of the question which purports to state the object of the alleged meeting.

By Mr. Stanchfield:

Q. Mr. Smart, were there a number of speakers there? A. Yes, sir.

Q. Who was the chairman of the meeting? A. Mr. Alexander Trachtenberg.

Q. And among the speakers was then Alderman August Claessens one? A. Assemblyman Claessens, sir.

Q. Assemblyman Claessens? A. Yes, sir.

Q. One of the five men here? A. Yes.

Q. You know him? A. I know them all very well, yes.

Q. Did he make a speech upon that occasion? A. Yes.

Q. Did you report that speech? A. Yes, sir.

Q. And report it accurately? A. Yes, sir.

Q. Have you before you your original notes? A. Yes, sir.

Q. I hand you a typewritten volume and ask you whether or

not in the volume and ask you whether or not in this volume is included the speech of Assemblyman Claessens? A. Yes, sir.

Q. In its entirety? A. Yes, sir.

Q. And it was, as you say, correctly reported? A. Yes, sir.

Mr. Stanchfield.— I offer it in evidence.

Mr. Hillquit.— Just one moment. I am asking as a point of inquiry and information from the Chair: is there any charge before us based upon the personal conduct of any of these five Assemblymen?

Mr. Stanchfield.— Is this argument, Mr. Chairman? The question is: This speech is offered in evidence.

Mr. Chairman.— I do not think there is anything in that. You may proceed.

Mr. Stedman.— I object that the notes are the best evidence.

The Chairman.— What?

Mr. Stedman.— That the notes are the best evidence.

The Chairman.— He has the notes in one hand and the book in the other.

Mr. Stedman.— I want the notes in evidence.

The Chairman.— Well, put the notes and the book in and you have got it all. Mark them both in evidence.

(The witness' stenographic notes were marked Exhibit 21 in evidence of this date.)

(The transcript of the witness' notes is marked Exhibit 22 in evidence of this date.)

Mr. Stanchfield.— Now that they have been marked I will read the transcript in evidence.

Mr. Hillquit.— The whole speech?

Mr. Stanchfield.— Yes, there are some very interesting things in it.

(Reading.)

"Assemblyman August Claessens: Comrades, we are going to have another distinguished Russian visitor, probably

more than a visitor, one of the Embassy here in New York City, with us in a very few minutes. (Applause.) And you will have to be satisfied with the talk of Comrade Humphries and that of Comrade Nuorteva, who is coming, concerning Russia and its marvelous and wonderful revolution.

"I, being a native of Harlem and not a Russian — and I glory at that (laughter) — and with that awful combination against me, I know Russia only that **which I read; and when** I sat here and listened to Comrade Humphries I thought to myself, 'Oh, I wished everyone of this audience would read of Ransome's book called "Russia, 1919."' If you want to refresh your memory, if you want to let some of these things sink in better, and have an opportunity to read it again and again, I would advise you to get that book 'Russia, 1919,' by Arthur Ransome.

"Yes, as Comrade Trachtenberg said, when we read and when we hear these things, we immediately begin to grasp the significance of what Socialists call the 'Social Revolution.' The revolution itself, you know, which so scared the average thick-headed American (laughter) into the idea of bloodshed and violence, a revolution that history tells us is a very harmless sort of thing — it is a change in the form of government — 'A change from a kingdom to a so-called republic is accomplished by revolution.' 'Revolutions,' says Kirkpatrick, 'are seldom noisy or bloody, unless the ruling class imprudently and stupidly stand in the path of progress and cry Halt' — just like a locomotive, not dangerous at all, but a very useful thing, except to a jackass that will stand on the tracks (laughter); that is, locomotives were not built to kill; they were built to move forward, to do some good.

"So with revolutions. We had a revolution here in this country in 1776. There are quite some people to-day who call themselves the Sons or the Daughters of the Revolution; and there are hardly very many of them that understand what the word 'revolution' means, and if they would meet one in actual making, I am afraid that they would denounce the fact that they were ever even associated remotely with an organization that had the word 'revolution' as part of its charter.

"But, revolutions in themselves are not necessarily the aim of Socialists. A revolution is a change in government;

but what we Socialists want is more than a change in government. We want a social revolution, which means a complete change in the economic, social, intellectual, moral, as well as physical phases of life.

"The foundation of present day society is the exploitation of one human being by another. We want to strike at that from the foundation, and in removing the private ownership of the things that are necessary to life, we remove the foundation, and once you remove the foundation the entire structure collapses, ought not to be rebuilt. We Socialists are social revolutionists; and for some of the detectives that are here, let me tell you that we are really the most peaceful people in the world, so much so that we are pacifists, that we hate the shedding of blood — we hate the shedding of blood, for we believe that "hanging and killing never did any man any good." It has no educating influence.

"So, in order to accomplish the social revolution, something more is necessary than merely changing the government; and I am afraid, my good comrades, even though we have the power here in the United States to-morrow to change it — I mean the day before yesterday to change the entire political structure — I doubt whether we are ready morally and socially for the social revolution.

"When I pick up the newspapers, and you pick up the newspapers, and you read of the race riots, you read of the brutality, the bestiality of the great mass of the American people, you will find that we are still such an inferior and beastlike set of creatures that we are far from that fine spirit of idealism which our comrades in Russia are so many thousand years ahead of us. (Applause.) Illiterate — yes, they cannot read. Well, that is not necessarily a sign of stupidity. If literacy was a sign of intelligence, then hats off to the American people; but we know that illiteracy, and very often, and Buckle tells us that, and you must never forget it — Buckle was the one historian who pointed out that when the printing presses came the great mass of the people became more stupid. (Laughter.) And, oh, how true is the philosophy of Buckle! Yes, says he, before people could read a liar had a limited audience. A faker would have to reach people only by word of mouth. Once the printing press came into existence the liar now had a large

audience, and since the people will always believe lies with greater avidity than what they will the truth, you have the situation of the American worker, with the American sloop jar, the garbage can — call it the Tribune or call it the World or call it the Journal or call it the Times, pumping lie after lie into him with no possible letup. You get a peculiar mental case of constipation that interferes with thought, and brings about a condition where the literate people may often be the most stupid of the people; and that is the peculiar situation we have here.

Here comes our Ambassador now. (Great applause, as Nuorteva enters.)

Now, you know me, comrades; I would not take five minutes of your time from anybody who has a more important message to tell than I have, and I am not going to let one moment of my time interfere with Comrade Nuorteva. But the crowd downstairs is very hungry to hear me, and they may send me to the lower regions — I will have to pass through Hell to get to Heaven — (Interruption). Well, then, you will send me down first. I will speed up, and I will speed up rapidly.

I say we have a harder struggle ahead of us. What we need in this country is not merely a growing movement directed towards the conquest of power, we need even a greater revolution, and that will be accomplished by persistent agitation. I know sometimes it is impossible — I know sometimes it seems so hopeless, I know sometimes it seems so discouraging, and the other day — and I would like Comrade Nuorteva to hear this, too — something happened up here in Harlem, the like of which we never saw before.

We have been through the campaign in 1914 and 1916, the time when Hillquit was first cheated out of his elections, but I would like to have his witness to what I am going to say, our good Comrade who sits here, because I tell it as an eye witness. Election day began. Every coking fiend, every thug, every dirty crook that the Democrats and Republicans could sweep out of the Bowery, they put into the election places in Harlem. (Laughter.) I want to be fair enough to say that in some places — there were one or two respectable people, one or two.

I remember the school at 111th Street, when a big car-load of thugs came into that school room and began to brush aside pickets, a girl, a Republican election inspector, looked at them with horror, threw down her pen and said, "Now, I cannot stand for this." She walked out. I want also to give credit to another inspector, a chairman of a board in one place, who trembled with excitement when he saw six guerillas around him. I stood next to him, and he said, "Clacssens, upon my word, this is my last year at this game." I want to tell you of other instances, but just briefly. In this district there were registered 13,900 — of the 13,900 votes you can figure on removals and sickness, the loss of about 500. You can figure about 13,400 people voting. All day long we Socialists were kept continuously on the jump, to compel this board or that board to permit a voter voting. Wherever they had a suspicion that he was a Socialist, they would use every trick to prevent you from voting. You would have to have your papers. You would have to show your marriage ring, or get some other evidence. You had to prove in many instances, and we had to go down to court and get orders from judge after judge to compel boards to let you vote. When you finally did vote, then, when they pushed the ballot down in the box, they would take a lead pencil with the point downward, and push the ballot into the box, and as they did that, it would also scratch the ballot.

I have seen where some of you people marked with care, and I know you did, the ballot was neat and clean, as you could make it, nicely marked, and I saw right over the middle of it one great cross. That was in the school at 111th Street. I saw fifteen ballots of that sort. Over here in 112th Street I saw thirty-five perfectly good ballots with ink smears over the top of them. During the day it went bad enough. At night the game began. About half-past ten, every crowd knew where they stood. They had seen the ballots, they had noticed how the Socialist vote was running, and I want to say, to our great joy in this district, we not only had a majority, but we had cast more than 7,500 votes in this district, straight from the top to the bottom. (Applause.)

Let me give you one instance, in 103d Street and Madison Avenue, the top ballot for Oneal, the vote was 288, to the bottom of the ballot it was 296. There were just 8 votes difference between the top vote for the candidate for the president of the Board of Aldermen and the candidate for the Assembly. They were straight. They were votes on principle, not votes for personalities.

About ten o'clock we noticed something happening. Each one held up the count. Then, four or five carloads of guerrillas began to come from one polling place to the other. They marched into the place, and the very first thing they did, eight or ten of them got around the table and pushed the Socialists out of the way.

In 108th Street, Comrade Burlan, and he is no small fellow, fought bitterly. He fought like a tiger, but they pushed him aside. One of these guerrillas had a gun in his pocket. Whenever any of us started to move toward him, you could see this particular movement (searching for gun). We appealed to the police, appealed to the police in some instances, where they were honest enough, they begged us to leave them alone. In other places, they were with these criminals, and in every detail and every movement, the argument was with the police captain, "Say, if you don't count them right, take the thing to court." You have some chance in court with the representative of the same crook sitting there, too, some opportunity you have got. (Applause).

Wait a minute — and then they began to count. They counted not only ballots, they counted blotters. They counted everything. We protested, but what was the use? About the only thing we could do was to stand beside them and watch them steal, and make a note of what they stole. I have a very conservative estimate which I have gathered from so many different places, and the result is that they stole over 1,500 ballots.

If we open the boxes — and I am not going to say much about what we are going to do, because that is going to be kept quiet a little while yet; but when we do you will find that we were elected by an overwhelming majority, and the reason why I am accredited with the majority of 49 votes, I will tell you, that was a mistake. (Laughter).

The guerrillas had done their dirty work in every place except one. There was just one place left, and it was 103d Street, near Madison Avenue. There were 296 votes for Assembly for your candidate, and for Mr. Schultz, there were 78 votes. They figured they were ahead, only that district would put us ahead 49 votes. They sent the guerrillas there, at least in one place there was a policeman, though, if he was not sympathetic to Socialists, at least he was a man, an honest man, a man of principle, and you know that is a rare spectacle to find in these days, and that man simply pulled out that club of his and decided it was one place where the law was going to be upheld, and the ballots were counted. The guerrillas sneaked out of there, I do not know how they ever got out of that place alive, because there was a reception committee that was waiting for them outside, that was beautiful; it was raining in torrents, but that last place saved us.

I say I went from polling place to polling place, so did Cassidy, and so did others. Never in our experience have I seen anything so brutal; and today, when I went down, I hear the same talk from the East Side, thousands of votes stolen from Lee's district; others were elected. Throughout the city it was the same history, the same record of thievery.

I tell you, my friends, if we take this situation as it stands now, and lay down, then we are the dirtiest cowards on the earth. We are going to fight. I do not hope much from the courts, understand, because the courts are elected by just such practices (Laughter). These very small judges hold their seats by just the same fraud. If they are not thieves, a great many of them are receivers of stolen goods, and you can imagine (Laughter)—you can imagine how much justice you can get from this bunch.

I know some people said yesterday, and I know some of you feel "To Hell with the whole matter of voting; to Hell with the whole form of government." If the government rests upon thievery and fraud, then you have no government, you might just as well refer to this nation as "The United States of Thieves;" but I am not one of those to become pessimistic. We are here tonight celebrating the second anniversary of the Russian Revolution; and, comrades, while the Russians have not the privilege of voting, if it may be called the privilege in the days of a czar, they had not themselves what you would

call a democracy before the czar; yet our comrades in Russia were also treated like dogs, were also shot and hung, and sent to Siberia. Every dirty trick they used against us here was used against them, and only worse, and did they stop? Did it kill their spirit? Did they say, "Oh, what's the use? Give it up, you cannot accomplish anything. You are up against a mightier power; what is the good?" Our Russian comrades did not say that. They were fighters; and when we are celebrating the second anniversary of the Russian Revolution, we celebrate the second anniversary of the success of fighting men and women, and if we celebrate that in the highest possible form, not only in our idealism, but in our enthusiasm, then we celebrate it also as martyrs, and not as cowards (Applause).

I warn you, comrades, that we are not going to lay down on the job, and I have spoken around the street corners, the night before last, and I have told my constituents the same of such a condition. I have likewise told any person who still remains a Democrat or a Republican — I do not care how honest and clean you may be, you are an accomplice of a crook. You have absolutely no right to speak of democracy (applause). You have absolutely no right to speak of an American Republic; there is no American Republic. It is merely one huge institution based upon fraud — God Almighty — If the men and women cannot cast their ballots, if they cannot get counted their own ideas, what is the sense of this whole thing?

Now, thank goodness, Socialists are not only working along political lines. If we thought for a minute it was merely a dream on our part, a great political controversy until we have a majority of men elected, and then, by merely that majority declare the revolution, if any of you smoke that pipe-dream, if that is the quality of opium you are puffing now, give it up. Give it up. Yet I do not want any of you to go to the opposite extreme. The economic movement is also the movement by which Socialists are marching on; but the economic movement also has its shortcomings; and it also meets the Cossacks, and the brutal forces of the capitalist power in every way. But there are other things we want. We are working not merely upon the industrial, upon the political, not merely in the cooperatives, but along the broad

lines of education, and I do not know, and you do not know, and there is today nobody in this room that knows how the social revolution will be accomplished in this country. At least, the luck that the Russians have, I doubt whether we will have it for ten million men to walk home, leaving their offices, in the sewers (inaudible)—walk home with guns, that is a picnic, that is easy for any revolution —(inaudible) (Laughter). But that is a condition that you have not got here.

“ So, under the circumstances, we have to proceed entirely different, and we have also to realize the brute forces against us, and, as such, we have got to use every opportunity we can get. I am not despairing yet as to what happened last Tuesday. It was the worst possible thing, but we are going to take the matter up legally. We can. We are going to present the fight as bitterly as we can, and we are going to call upon you witnesses, in a few days, and I want you to keep yourselves ready for it, all you that have seen this fraud. We are going to ask you, if it becomes necessary, and if we do not win in that particular instance, if some of these people are still permitted to do that, then, cheer up, there is more than one way to kill a cat. There is more than one way to accomplish things, and we will use political power as long as we have it, and political campaigning as the platform of call for the Social revolution, and we shall do that to our utmost.

“ Yes, and in celebrating the second anniversary of the Russians, we celebrate their enthusiasm and their spirit, and you cannot celebrate without getting that spirit into you also.

“ I was going to tell you some things. I was going to tell you that insofar as this district is concerned, that once we have beaten these people once and for all, once we have enough people here to make it safe, so that it is unnecessary to continue any further political campaigning, that will mean a benefit, insofar as you could release me and other speakers, and we could go elsewhere and reach the great mass of American mujiks, but I am going to do my share anyway. I am going to get out of this city in the month of May, my wife and baby along with us, and we are going to go out into the highways and byways. I am going to travel the country for 20,000 miles from coast to coast, and I am going to tell some

of these staunch American patriots what a democracy we have, what a humbug and what a fraud we have, and I will be back here probably in October again, just in time to make another fight in this district.

"Others of us have to do that. We capture one section and move on to the next, until we reach more and more, and ultimately realize — do not get behind, do not let the thing of last Tuesday wear on your nerves. It was mean, it was dirty, it was the lowest — and if that is American — well, then, we are proud to be called non-Americans (laughter). The dirty trashy way — if that gang stands for that, refers to Russia as a country of atrocities, then, I tell you, some day the Russians will have to send missionaries to the United States (applause), for the purpose of bringing decency in here.

"My God, when I looked at some of those dope fiends that sat around some of those boards, I thought to myself — some of smile, gentlemen, and newspapers talk about the nationalization of women in Russia. If there was an ounce of truth in your particular damnable lot, you would be the first ones to take a steamer to go to Russia. The language that those men used at the polling place there was absolutely unfit for pigs; and those are the types that we are supposed to believe uphold our American democracy. If there was not a fact that a change was coming, we would say: "To hell with the whole business". But we are going to the Assembly, and we will tell it to them. There are five of us. Charlie Solomon is one. There are others and I will go myself into the bargain, and we will tell them something. But we won't waste as much time in the Assembly, comrades, talking to that bunch that sit there with stolen property sitting in their seats, but we will use our position with the Assembly and reach the Henry Dubs and speak to them, and I can assure you, comrades, we won't sleep one night when we are in Albany, but every night we will be speaking in Troy, Schenectady and Amsterdam. Everywhere around there, arousing the workers wherever we possibly can.

"So, let us rejoice tonight. What has happened is not so serious. What has happened is good, insofar as it is but another reason and argument that proves the necessity of not merely a political victory, but a social revolution. (Great applause.)"

The Chairman.—The Chair will enforce the rule that applause must not be repeated.

Mr. Hillquit.—Not at this time, Mr. Stanchfield, but we will be obliged to direct your witness to be back the next day, whenever it is.

WILLIAM TALLMAN, called as a witness, being duly sworn, testified as follows:

The Chairman.—Any person desiring to leave the room, will leave it now.

Direct Examination by Mr. Stanchfield:

Q. Mr. Tallman, where do you reside? A. I reside in Englewood, New Jersey.

Q. And what is your occupation? A. I am the Chief Deputy Clerk of the United States District Court for the Southern District of New York, New York City.

Q. That embraces New York City? A. Yes, sir.

Q. An have you produced certain papers in obedience to the subpoena issued to you? A. I have.

Q. And what are they? A. They are an exemplified copy of the indictment in the case of the United States of America versus Scott Nearing and the American Socialist Society, which is numbered Criminal Docket 12, page 436, with the endorsements thereon, showing the proceedings in the case and also exemplified copy of the docket endorsed in the same case.

Mr. Stanchfield.—I mark them for identification only, Mr. Hillquit.

(The papers were received and marked Exhibit Nos. 23 and 24 for identification.)

Mr. Stanchfield.—That is all, Mr. Tallman.

Now, I ask the Chairman to adjourn further proceedings until next Tuesday morning at 10:30.

Mr. Stedman.—Mr. Chairman, for a special instance our counsel may desire accommodations and I would be reluctant to oppose a proposition of that kind. The defendants in this case and those who are associated in their defense have very limited financial resources with which to meet the expense of defending

their case here. I am from some distance myself. But even that would make little difference in the matter; it is necessary for counsel to be here and for the defendants to be here, and as far as it is possible to gather any indication from what has taken place, this will be for some considerable period and duration. Perhaps before going further I would like to ask Mr. Stanchfield if he is in a position to say what length of time will require them to present their case.

Mr. Sutherland.— Mr. Stanchfield has gone.

Mr. Stedman.—Are you in a position to suggest the time?

Mr. Sutherland.— I am not able to say now, Mr. Chairman.

Mr. Stedman.— Will it be approximately six months, two weeks or one week? I mean approximately. I haven't the slightest idea.

Mr. Sutherland.— May I say to you, Mr. Chairman, and gentlemen of the Committee, in asking for an adjournment now, counsel for the Committee do not intend to scatter to their homes and take some other work. They intend to go on to-night and to-morrow and Saturday with the preparation of the material to present to this Committee, and we are going to save this Committee's time and the time of counsel and these five Assemblymen if we have this recess. We are going to work for the purpose of digging out those things which are material, and leaving out those things which are not material. It is a time-saving motion that we are making here.

Mr. Stedman.—Are you able to say with any proximity as to how long it will take to put in your case?

Mr. Sutherland.— If we are allowed to put it in without too much interruption it will take no length of time.

The Chairman.— The Chair will take care of that.

Mr. Stedman.— Is there any indication of whether it is going to be a month? Can you give me any indication?

The Chairman.— No, I cannot. I know nothing about the evidence in this case. I assume it will be a reasonable length of time.

Mr. Stedman.— Of course, you appreciate for the public interest it should be disposed of as rapidly as possible and also on

account of our financial situation. We haven't the State of New York to pay our expenses, although these men and other men are defraying these expenses as taxpayers.

Mr. Sutherland.— We shall make haste to get ready and put this evidence in as rapidly as we are permitted to do it. We are not going to slow up our processes one moment. We hope we can get the case substantially in next week.

The Chairman.— Now, the situation develops along this line. So interested are the members of the Assembly in this case who are to be the final judges that the Assembly work is practically suspended, pending the decision of the case.

No committee meetings are held. There is going to be an attendance here so we are all of us equally anxious to bring the matter to a conclusion just as rapidly as possible. Now, it would seem to me, that an adjournment until 10:30 Tuesday would be proper at this time; but the Chair doesn't wish the impression to go abroad that there will be an adjournment the following Thursday. The Chair is going to insist and calls attention of the members of the Committee and members of the House who are hearing the case, to the fact that unless there is some very extraordinary reason develops, the Committee sessions will continue next week, at all events until Friday night, and possibly Saturday. We desire to have this matter tried as rapidly as justice will warrant, always bearing in mind, gentlemen, in case you are surprised by some evidence, or desire any reasonable extension of time, or courtesy, the Chair will be very glad to do that.

Mr. Stedman.— I was gratified to hear counsel say that he thought substantially they would have their case in next week, because we had no indication as to whether it would take three, four, five, six or ten weeks.

Mr. Sutherland.— Will you kindly direct the witnesses, all witnesses, except the witness Tallman to be present Tuesday morning at 10:30 ?

The Chairman.— The Chair directs all witnesses to be present, except Mr. Tallman, Tuesday morning.

Mr. Hillquit.— One other matter: we have leave to file our statement until Friday. Since we have adjourned, I suppose that means until we reconvene.

The Chairman.— Yes, but we will adjourn until ten thirty Tuesday morning, and all witnesses are directed to appear here at that time.

Miss Stern.— May I be informed as to when I will receive my book back?

The Chairman.— You take that up with Mr. Hillquit and Judge Sutherland.

Mr. Berger.— That has been arranged, Mr. Chairman.

Mr. Hillquit.— That has been arranged between Mr. Nellis and counsel for the Committee.

Whereupon, at four fifty-five p. m. on Thursday, January twenty-second, nineteen hundred and twenty, an adjournment was taken until ten thirty a. m. on Tuesday, January twenty-seventh, nineteen hundred and twenty.

STATE OF NEW YORK — ASSEMBLY CHAMBER

In the Matter of the Investigation by the Assembly of the State of New York as to the Qualifications of Louis Waldman, August Claessens, Samuel A. deWitt, Samuel Orr and Charles Solomon to Retain Their Seats in Said Body.

THE CAPITOL,

ALBANY, N. Y., *January 27, 1920.*

Present:

Hon. Louis M. Martin,
Hon. George H. Rowe,
Hon. James M. Lown, Jr.,
Hon. Edward A. Everett,
Hon. William A. Pellet,
Hon. Edward J. Wilson,
Hon. Charles M. Harrington,
Hon. Harold E. Blodgett,
Hon. Theodore Stitt,
Hon. Louis A. Cuvillier,
Hon. Maurice Bloch,
Hon. William S. Evans.

Appearances:

For the Judiciary Committee:

John B. Stanchfield,
Elon R. Brown,
Charles D. Newton,
Arthur E. Sutherland,
Samuel A. Berger,
Archibald F. Stevenson,
Harry F. Wolff,
Thomas F. Carmody.

For the Socialists:

Seymour Stedman,
S. John Block,
William Karlin,
Gilbert E. Roe,
Walter Nelles.

LOUIS M. MARTIN, Chairman

(The Committee met pursuant to adjournment at 10:45 A. M.)

The Chairman.— Proceed.

Mr. Stanchfield.— Is Mr. Robinton here?

Mr. Stedman.— Pardon me a moment for the record, Mr. Chairman and gentlemen of the Committee, I would like to announce that Mr. Hillquit will be absent for the course of a week. He has been away on account of his health but has been in preparation of this matter for about two weeks. We expect him to return in about a week.

The Chairman.— Record him so.

Mr. Stanchfield.— The Committee will recall that when Mr. Robinton was upon the witness stand the other day and had made but a partial translation of the exhibit entitled "The Dictatorship of the Proletariat" that we assured the Committee that we would produce a complete translation of that book and in connection with it I call the attention of the Committee to Section 1 of Exhibit A, Exhibit A being the National Constitution and platform of the Socialist Party. On page 12, Mr. Stedman, article 12, section 1: "Foreign Speaking Federations. Five branches of the Socialist Party working in any other language than English shall have the right to form a National Federation under the supervision of the Executive Secretary and the Executive Committee."

I simply call attention to that paragraph.

WITNESS ROBINTON resumed the stand:

Direct Examination by Mr. Stanchfield:

Q. Mr. Robinton, you were asked when you were here last upon the witness stand to make a complete translation of a pamphlet. Have you got the pamphlet in Hebrew? A. The Clerk has it.

Q. Have we got the original pamphlet, the complete translation of the pamphlet in Hebrew from which you had translated excerpts that were read in evidence? Do you recall that? A. Yes, sir.

Q. And that you were asked to make a full and complete translation of the entire exhibit? A. Yes, sir.

Q. Have you made such a complete translation? A. I have, sir.

Q. Is it complete? A. Yes, sir.

Q. And of the whole of the exhibit? A. Yes, sir.

Q. I hand you a document and ask you whether or not that is the translation of the entire exhibit? A. Yes, sir, that is.

Mr. Stanchfield.— I now offer that in evidence.

The Chairman.— Received.

(Paper was received in evidence and marked Exhibit 25.)

Mr. Stedman.— I should like a copy and also the book that I may submit it to a translator for us.

Mr. Stanchfield.— The book is not in the room, Mr. Stedman. They have gone after it. You may cross-examine, if you desire.

Cross-examination by Mr. Stedman:

Q. Did someone read it to you? A. No, sir.

Q. You took the book and dictated a translation or did you write it? A. I wrote it out.

Q. Longhand? A. Yes.

Q. After you wrote it in longhand you gave it to someone to copy on the machine? A. Yes, sir.

Q. Did you compare it with anyone? A. Yes, sir.

Q. Who? A. With the typist.

Q. Who? A. With the typist.

Q. That is all.

Mr. Stanchfield.— We hand counsel for the five men exhibit 17, being the document in question.

Mr. Stanchfield.— I suppose, Mr. Chairman, the only way to make this record complete is to read the translated copy.

Mr. Sutherland.— Shall this be marked as a duplicate exhibit?

Mr. Stanchfield.— Just mark it Exhibit No. 25.

(Received in evidence and marked Exhibit No. 25).

Mr. Stedman.— You may mark this as a duplicate of Exhibit No. 25.

Mr. Sutherland.— Exhibit No. 25 reads as follows, Mr. Chairman :

**"SACRED SOCIALIST PRINCIPLES BEFORE THE WAR AND
Now**

"Until the war Socialism was a sort of religion, heavenly thing which almost had no connection with real life. It had its Bible ('Capital' by Karl Marx), its commentaries and decisions (the great Socialist literature) and its temples (The Socialist Movement). Then every Socialist quite calmly recited his 'I believes,' solemnly assured that he believes in the sacredness of all the Socialist formulæ. From time to time there appeared heretics, who wanted to reform the Socialist doctrine, who have denied this or that principle, but they found very few followers. The great mass of Socialists remained orthodox, strictly Marxian." At that time all believed in this principle: 'WORKERS OF ALL COUNTRIES UNITE' in the principle 'THE WORKERS HAVE NOTHING TO LOSE BUT THEIR CHAINS.' At that time all believed that at some time Messiah would come, that a 'socialist revolution' would be made, and when that would happen there will be introduced 'a dictatorship of the proletariat,' which will 'abolish the bourgeoisie state,' and found a 'Communitic Society.'

"In all these Socialistic decisions and formulas, a Socialist then only had to believe. About realizing then quickly in life, there could then be no talk about. To believe is not hard work. The principal activity of the Socialist movement has had very little connection with these fundamental principles or final aims.

"The Socialist parties in industrially developed countries have principally given themselves over to the struggle for political and economic reforms.

"The war and the revolutions have entirely changed this condition: From a religion socialism was transformed into a program of life. The Socialists have suddenly discovered that the 'Messiah times' are already here, and that they must apply their sacred 'I believes' to life, that it is no longer sufficient to say their 'I believes' with their lips, that now they must go through fire and water for their 'I believes,' place their very lives in the game.

"It is understood that few have withstood this temptation. Some simply did not have the courage; others again, suddenly realized that they lived in error all the time, that they have not at all understood the true sense of the socialistic formulae which they used to repeat with so much zeal. They saw that the materialization of these formulae is not as attractive as they pictured it in their fancy.

"In the first years of the war the first fate befell the socialistic formulae in relation to the international brotherhood of the working class. The sacred verse "Workers of all Countries United" was suddenly forgotten. Old Socialist scholars began to interpret these and other principles which have determined the international character of the socialistic movement. This called forth differences and protests, and the movement in each country was split up into majorities and minorities.

"After the Russian revolution the formulae 'the dictatorship of the proletariat' was adopted. The Bolsheviki declared that they now believed in this principle, still more than before, and they were ready to materialize it. Other Socialists raised mighty protests against this, and when the Bolsheviki went from words to deeds, there broke out between these two Socialistic groups an open struggle, a war with guns and swords.

"And this war over the old formula is still going on. In Russia proper it is being fought out with weapons in the hands; in other countries it assumes the form of splits in the parties, of the founding of new Socialist parties, of uprisings against old leaders, and so forth.

"THE OPPONENTS OF THE DICTATORSHIP OF THE PROLETARIAT

"To thoroughly explain the whole matter, it will be easier to begin from the other side from the opponents of the dictatorship of the proletariat. Their standpoint is the smoother, the simpler,—it rests easier on the mind. This is because their trend of thought, their logic is in accord with the trend of thought and logic that now prevails in society. We are living in this psychology, we, 'absorb' the standpoint, if it can be so expressed, of all that surrounds our material and spiritual life.

"The opponents hold, that the most sacred thing as an abstract and practical principal is 'democracy.' And since 'dictatorship' is the converse, just the opposite of democracy, it is unclean, filthy.

"They hold that Socialism will conquer not through a dictatorship but only through democracy. How will this come to pass? The industries become more and more monopolized and organized. The number of the proletariat grows. The might of the proletariat is becoming greater. At the same time the principle of democracy is spreading. More and more of the proletarian population are getting the right to vote. It will finally come to the condition, when the great masses of workmen will become the mightiest political party. They will get the government into their hands, and then they will through the government, through the state, introduce Socialism. They want to do this in a proper legal, peaceful, highly democratic manner.

"In this Socialistic program dictatorship has properly no place. To the question that pious Socialists raise: how about this, isn't it explicitly stated in the Communist Manifesto that at the introduction of Socialism there will rule a dictatorship of the proletariat, different ones among them give different answers. Some of them explain that Karl Marx wrote this phrase unwillingly, unthinkingly, and that he would not rest peacefully in his grave if he knew that at present his followers are raising this phrase to weaken the sacredness of democracy. Others again explain that Karl Marx meant that dictatorship should be introduced by the Socialists by a majority of votes through regular election to get the government in their hands. This means: if after the Socialists will elect their Congress and their President and will begin to compose Socialist laws and then the capitalists refuse to obey these laws, refuse to surrender to the state their industries, the Socialist government should make use of force, become a dictator. It also means, that in case the courts will then nullify the laws of the Socialist Congress, the Socialists should ignore this and proceed with their work.

"That this excuse is a very weak one, they themselves admit because after the Socialists would lawfully take the government in their hands they could not be called dictators,

no matter what they may do, no matter how they act. For they then have the consent of the people, the 'democratic power.'

“THE DEFENDERS OF THE DICTATORSHIP OF THE PROLETARIAT

“The adherence to the principle of ‘the dictatorship of the proletariat,’ believe that without this means it will be impossible to reconstruct society from a capitalistic to a socialistic system. They rely principally on history. They rely also on the Socialistic conception of the ‘state.’

“(1) History teaches us that through evolution, through natural developments alone, no ruling class in society has yet ever been deposed from its power. The futile aristocracy which lost its importance in society in the 18th century, did not surrender its position good naturedly. It defended its position by force, with lead and iron. Workingmen cannot depend on ‘peaceful evolution;’ they must prepare for a revolution, and class dictatorship.

“(2) And aside from that, the state is a dictatorship, anyhow. It does not matter how the officers are elected, who is elected, the will of the people is not carried out through them. The State carries out the will of the ruling class. So long as the bourgeoisie is the ruling class, the State is the dictator for the bourgeoisie; when the proletariat will become the ruling class, the State will be the ‘dictatorship of the proletariat.’

“(3) Socialism does not believe in the State. It wants to annihilate it entirely. It holds that the task of the State has always been to oppress the country in the interests of one class. So long as there are classes in society which seek supremacy, the mastery, there must be a State.

“The State agrees which class should dominate, and gives it the possibility to realize this domination. But as soon as classes are eliminated, the State will have no justification for existence, and it will disappear of itself.

“Therefore, the dictatorship of the proletariat will be only temporary. It will exist only as long as the reconstruction of society, from a capitalistic to a socialistic system, will last. This is the way, the procedure of the socialist revolution, as these revolutionary socialists understand it.

"The socialist movement rouses the workingmen to revolution, it preaches to them class struggle, awakens within them class consciousness, makes all necessary preparations for socialistic order. When society is ready for the overturn, when the socialistic organization feels that the moment has come, it will make the revolution. To prescribe when and how this should be done, is impossible. This is a thing, which must be determined separately in every country, because the circumstances in every country are different. No sooner than the revolution is made however, the first aim of the socialists must be to seize the government, the State, by whatever means they can succeed in doing this with and then their rule must establish the dictatorship of the proletariat.

"This dictatorship will be employed for one thing, to eliminate capitalism by force, take away by force the capital from private owners and transfer it to the ownership of the community. After this work is finished, there will remain nothing more for the dictatorship, for the PROLETARIAN STATE, to do. The industries will then be managed by the workingmen, through their Soviets. The economic order will be carried out through the Soviets. Until now the State had a function, a task to defend the ruling class against the oppressed classes, but now, when private ownership is entirely eliminated, the oppressed class, the bourgeoisie, whom the dictatorship of the proletariat, will dominate, will entirely disappear, then what is the State needed for? There will then be no more State, no more dictatorship. There will be only a communist order, which will be managed by the workingmen themselves, that is, by all the inhabitants of the country, through Soviets, or through some other similar system.

"DEMOCRACY" THE DICTATORSHIP OF THE BOURGEOISIE

"The most important chain in this logical ring is the assertion that the democracy which now dominates in industrially developed countries, is a democracy in name only, in reality it is no more than a dictatorship, the dictatorship of the dominating class, the bourgeoisie. It is understood that the opponents of the principle of dictatorship of the proletariat deny this assertion. They admit that democracy is not per-

fect, while there still exists many bad civil and suffrage laws. They believe, however, that with the growing power of the proletariat, of socialism, those bad laws will be eliminated, and democracy will in time become complete; as proof they bring up the progress in woman suffrage in many countries which was made in the past few years.

"What have the defenders of the dictatorship, the doubters, in the dignity of the existing democracy, to say to this?"

"They say, that here is a question of research, of acute discussion. Everything can be interpreted. It is necessary to judge from facts, from what we see with our own eyes.

"And what do we see with our own eyes?"

"That notwithstanding that the workingmen, the proletarians, organize themselves still more and more, notwithstanding that their numbers grow and their industrial power is getting greater, the political state does not consider them one particle more. The State serves at present just as faithfully and perhaps still more faithfully the interests of capital than when the proletariat was much weaker and smaller.

"1. Why is this so? Because the State, the Government which represents the people, is elected, and put together, not industrially, but politically. The representatives who are sent to Congress are not elected from classes and industries, but from territories. It does not matter what kind of platform, what principles the party which nominates the candidate may have; the candidate, knowing that his voters come from various classes, must consider the interests of the various classes. He does this willingly or unwillingly, knowingly or unknowingly. He feels instinctively that he is the representative of country, not of a certain class, or a certain industry, and while such, he is not wholly bound to a certain class, he falls in time under the influence of the capitalist class, because it is the stronger and has the means, honest and dishonest, to affect him more strongly.

"2. The State, being a political organization, is not properly understood by the great masses of voters. The bourgeoisie, the wealthy classes, do understand what task the State has, and of what use it can be to them. They understand it, because they always stood near the modern State, and because they have the possibility to learn and to study these ques-

tions. But this is not the case with the proletariat, the working classes. They are confused. They do not know what the State is, and what bearing it has to their economic life. Consider this fact, that the American Federation of Labor, preaches to the workman the doctrine, that they cannot participate in politics as workingmen, but as citizens. Millions of workingmen in America believe in this principle, and some of the leaders who preach this are quite sincere. They are convinced that the State has, as its principal task, questions that have with the workingmen as workingmen, no relation. They believe that these tasks are about national and international affairs, in which all classes of citizens have the same interests, and that, therefore, all citizens at elections must unite to elect honest and capable men. True, it sometimes happens, that the government has to deal about a labor question, then they believe that an honest and capable government will in such cases be 'fair,' just in their word, especially when the organized workers will send mediators to act on the government and make their promises about workingmen's votes at the next election.

"3. The State is so organized, that even under the best circumstances, under a complete democracy, and with a sufficient knowledge about the tasks of the State,—the workers must lose, when their interests there come into collision with the interests of the bourgeoisie. The government is divided into three parts, and the greatest power is possessed just by those two parts of the government, over which the great masses have either none or little say. Congress, the legislative body, is the only branch of the government which can under an idealistic democracy, actually represent the people, but exactly because this branch stands closest to the people, its influence and power in the State grows smaller and smaller. The power falls more and more into the hands of the executive body, and into the hands of the courts, who stand far from the influence of the great masses of the voters. Within the last two decades, since the power of big capital has powerfully developed here, Congress became a tool in the hands of the President. In important questions, Congress does the wish of the President, especially when they both belong to the same political party.

"4. To enlighten a sufficient number of workers and make

them strict voters of their party is immensely difficult, if not entirely impossible, for two reasons. First, the capitalistic classes and their parties possess better means of propaganda, better newspapers, speakers, writers, because they have the money to buy them with. Their propaganda is a more efficacious one, and second, the bourgeoisie has the government machinery in its hands, and it can use the power of government to intimidate working masses, or to rob them of their votes altogether.

"On the ground of all these reasons, the adherents to the principal of 'The Dictatorship of the Proletariat,' explain that the political state is not and cannot be transferred into a democratic organ, through which the will of the people should receive its real expression. The state is now the organ of the dominating class, of the bourgeoisie. It is the dictatorship of the bourgeoisie and it will be so long as the bourgeoisie will be the dominating class in society. When the condition will change, when the proletariat will become the dominating class, the state will become its organ, and then the dictatorship of the proletariat will dominate.

"THE DICTATORSHIP OF THE PROLETARIAT IN THE RUSSIAN REVOLUTION.

"To the lot of Russia it fell to be the first to introduce the dictatorship of the proletariat. Every beginning is hard. It took some time till the Socialists themselves, in Russia and other countries, became used to the thought; this obstacle was probably the hardest in the way of the Bolshevik revolution. Still to this day, many Socialists, principally among the intelligencia, have no clear conception what this dictatorship signifies. Even those who defend the dictatorship are groping in the dark.

"The following claim is often heard from these defenders: the Bolsheviki have introduced the dictatorship, because the country finds itself in a state of war, because the country is besieged by enemies from without, and is full of enemies within. This means, in time of war, everything is permissible. Even in the really democratic countries the liberties and rights of citizens are curtailed under such circumstances. During the five years of war, there were no elections held anywhere in Europe. The governments there were then also dictators to a certain degree.

"This excuse is false. The dictatorship of the proletariat in Russia is not a means of defense against counter-revolutionists, or against foreign enemies. Even if the country was peaceful, if she was secure from any reactionary dangers whatsoever the dictatorship would not be eliminated. The only difference would have been in the keenness of the dictatorial decrees. Under peaceful conditions the dictatorship would not have been so strict with the bourgeoisie. The dictatorship in Russia consists in this, that only workingmen, people who produce only and have no other income apart from their work, only these people partake in the elections to the Soviets. This means that the bourgeoisie is excluded from any kind of voice in the state. The Russian Society is now a socialistic one, and those resident or citizens who make profits are considered sick members, who must be cured, and they are being cured gradually. More and more industries are given over to the workers, as communistic administrators, and the owners of these industries are gradually transferred from the bourgeoisie to the working class. But so long as they belong to the bourgeoisie, they cannot vote at elections, simply because they have no one to vote for. The government is an industrial one. The soviets are composed of representatives of workmen and peasants, the problems that they act upon, the work that the soviets do, relates to the communistic institutions of the country. What can a bourgeoisie representative do there? One possible thing—hinder. He comes there with this object only. The main problem that the soviets have is to eliminate the bourgeoisie the sooner. How can a bourgeoisie representative wish to enter such a body?

"Would a democratic country admit into its parliament a representative of anarchists, who declare themselves for the destruction of the state, who state openly that they go to parliament with the object of annihilating it? Real anarchists do not participate in politics, and the state does not permit such people to become voting citizens; to occupy a place in parliament is out of the question. Just as our democratic state looks upon anarchists, so the Russian dictatorship of the proletariat looks upon the bourgeoisie.

"The Bolesheviki in Russia are open-hearted in their position. They could have masked their actions by so-called laws

or swindling acts. Having the physical force in hand, they could have allowed the bourgeoisie to the ballot box, and so, take care of it 'at elections,' that the bourgeoisie votes would have no effect, anyhow. That such things are done in democratic countries, is a too well-known fact. The Bolsheviks have, however, not availed themselves of such methods. On the contrary, as soon as they came into power, they declared as a point in the Constitution, always and forever, that bourgeoisie have no right to vote.

"And the Bolsheviks are open and sincere also in the relation to the dictatorial decrees, which they issue against the bourgeoisie. Lenin declared, for example, that the suppression of free press for the cadets, will continue as long as he feels that they can through a free press, bring the least harm to the Bolshevik rule. But as soon as he feels, that the cadets through free newspapers, can do nothing against the Bolsheviks, he will remove the decree.

"The decrees, the limitations, of general humane rights and liberties against the bourgeoisie are the result of the extraordinary condition which the Bolshevik dictatorship finds itself in at present. The dictatorship itself however, is not a means of defense. It is the bone of the Socialist revolution, and it must be established in every country, under all circumstances, when the Socialist revolution is made there.

"THE 'DICTATORSHIP OF THE PROLETARIAT' AND THE INTELLIGENCIA

"The dictatorship of the proletariat receives the keenest damnations by the intelligencia. This is the case in Russia; this is the case in other countries, where the question is temporarily, theoretically discussed. The reason for this is easy to understand.

"The capitalists and the workingmen have few illusions about the 'democracy' that dominates in the 'free' countries. They know the whole truth. Life is their teacher. They know that the so-called democracy is more on paper than in reality. The capitalists who stand behind the curtain of the government, see how easy it is to weaken the democratic principles; the workingmen, who lie continually in the trenches of the class struggle, know how difficult it is to apply

the democratic principles. We speak, of course, about the thinking ones among the two elements. It is a known fact, that in America, for example, the capitalists and the masses of the workingmen look upon the government with indifference, and thereby the fact is actually explained why the better people do not mix in politics, why the political machines lie in the hands of corrupt persons, to whom politics is only a business, why there is so little soul, so little idealism in politics here.

"This is, however, not the case with the intelligencia, with the middle class professional men. They are themselves far from the everyday struggle between the classes, between the owners and the workers. They know of the laws on paper, but not of the laws in the courts. They know what the Legislators talk and write publicly for the public, but they do not know of the hidden motive.

"Aside from that these intellectuals have been brought up on the books and lectures of bourgeoisie universities. They have from their very youth absorbed into themselves the belief in and the reverence for the sacred principles of democracy. For them no higher ideal really exists. Even those among them who later became Socialists did not cease to serve the idol of 'democracy.' They confess that the principle is not completely realized, and that it is not honestly observed in the present society. But they did not permit the thought, that it is in essence wrong, that it is impossible, that the 'state' and 'democracy' are two conceptions that cannot go hand in hand.

"Therefore, we find such an embittered, biting antagonism to the dictatorship of the proletariat among the intelligencia of the Socialistic parties. Their people say openly, that to them democracy is dearer, and holier than Socialism. They say openly that even if they were sure, that the Bolsheviki would by their methods realize the Socialistic ideal and establish permanently a Socialistic society in Russia, they would fight the Bolsheviki no less than now, if they would not believe this. They would fight Socialism in the name of democracy. 'If Socialism cannot be introduced without the dictatorship of the proletariat, then we rather wish never to have Socialism,' they say.

"It is understood, that when the moment of materializa-

tion comes, when the revolution is made and the proletariat seizes the power, the opposition of the intelligencia is not very serious. The intelligencia is by nature no fighting element. Very few of them are ready to bring sacrifices. The kind of life which they had in peaceful times develops in them a certain quiescence, a certain laziness, a certain love of ease. There are, of course, exceptions, but their number is not sufficiently large that they should really have to be feared.

"But this element is harmful in ordinary times, when the Socialist movement carries on its propaganda and prepares the masses for the revolution. As the Russian Revolution has demonstrated, it is absolutely necessary that the great masses should understand thoroughly the truth about democracy and the truth about the dictatorship of the proletariat. If this were the case in Russia, less blood would have been shed, many innocent lives would not have been sacrificed for nothing.

"The Socialist parties in every country may not neglect this point. They must make clear for themselves their position in regard to this important question and they must propagandize this position among their members and among the masses, whom they seek to attract to them.

"THE 'STATE' IN DEMOCRATIC COUNTRIES

"The importance of this point becomes clear as soon as one frees himself from the false idea, that in democratic countries the State is more at the service of the whole people than in despotic countries. The error grows from this, that in democratic countries the government mingles more in the industrial life, makes laws concerning labor and holds a certain control over production, over domestic and foreign trade and so forth. It is accepted by the general public, that when the government mingles in private affairs, in industrial matters, the people gain thereby and that the more the government creeps into the country's industry, the weaker becomes the power of the bourgeoisie and the stronger becomes the power of the proletariat.

"This is, however, a mistake, and a serious mistake. If we believe that the State is an instrument in the hands of the bourgeoisie, that it is the expression of the dictatorship

of the bourgeoisie, then we must logically infer, that the stronger the State becomes, the more widely and the more deeply it spreads its influence and opinion, the mightier becomes the class which it serves. If the State is the dictatorship of the bourgeoisie, then it is worse for the proletariat, when the State gets a big say in the field where the struggle between the bourgeoisie and the proletariat is fought out.

“In the democratic countries the government now intervenes in the strikes, in the disputes between labor and capital. The government controls there to a certain extent the important industries, and the tendency is that this ‘government intervention’ should increase. Especially is this the case in England and America,—in those countries, mind you, where capitalism has acquired the greatest power. What is the reason? Is it because in those countries the workingman is a greater force, because there the government is more inclined to defend the interests of the workingmen? No, the reason is just the reverse. Capitalism alone wants the State to have a say in the industries, in order that the State should there better be able to exercise influence to help capitalism in the struggle with labor. We have seen in the years of the war how much truth there was in this. We also see it from a second striking fact. The railroad workers in England and America once thought that the greatest fortune for them would be when the State would control the companies. Later, when the government control was established in certain localities, the workingmen suddenly discovered that they have gained little from this, and they began to demand that the government should completely take over the railroads. This wish was also realized — for a while — at least, in war time. Then the workingmen became convinced that even from that the companies gained a great deal, a great deal more than the workingmen. So the workingmen demand now that the government should hold the railroads, but that they should be managed in partnership by a joint committee of the government and the workingmen, and that the workingmen should be entitled to a certain part of the profits.

“The enlightened workingmen must understand the true character of the State, in order not to be seduced by the so-called liberal and reform parties, that seek to ‘help’ him

through the State. He must know what the State is and how much help he can expect, how much good he can expect from a strengthened State.

"THE SOCIALISTS AND THE 'DEMOCRATIC STATE'"

"Consider the question, that so long as the State is an instrument, a tool in the hands of the bourgeoisie in the fight against the proletariat, so long as the state is the dictatorship of the bourgeoisie, then why do the socialists seek to send their representatives there? Where do socialists fit into the State? What can they do there?"

"Socialists seek to enter into the government for two reasons: first, to be nearer to the doors of the chambers, where dictatorship sits, and second, to hinder the dictatorial work in any way possible. The first reason is the most important. Sitting in Parliament or in Congress, being inside of the government counsels, affords Socialists an opportunity to find out the plans, the strategy of the State. And knowing this they can carry out their propaganda the better. Socialists seek to be elected into the government principally for the sake of propaganda.

"It is true, that not always is this aim reached. As we have already pointed out above, it is not easy for the elected Socialist to stick firmly to his convictions and to go on the straight way. The bourgeoisie atmosphere in which he breathes, gradually exerts influence, and it happens, that he becomes infected and begins to make compromises. Such things are inevitable. The proletarian struggle is actually so enormously difficult and the progress which it makes is so terribly slow, especially because its leaders stray from the road en masse. If that discouraged the proletariat, it should long already have given up all its undertakings, its economic as well as its political organization. But it must be said, that the leaders rarely stumble against the stone of dishonesty or corruption. The average labor leader or Socialist leader possesses a high degree of idealism, and for this reason indeed he is drawn into this kind of work. In most cases they stumble because of purely psychological reasons. They do not possess enough intellectual baggage to overcome the bourgeoisie winds that blow on them from all sides. In the government branches these winds are much stronger than

in private life. At times these winds cause a great storm — this is the case in critical times, as for instance in a war, and an extraordinary amount of character and knowledge is needed to resist them and not to be crushed or carried off.

“THE SOCIALIST MOVEMENT AFTER THE WAR

“All the sacred verses, over which socialists worried but little before the war, which were defined as pretty phrases, now become the creed, the soul of the movement. Once one could be a good member of the socialist movement, even a distinguished leader, without knowing or thinking of the meaning of these verses. Now, this is impossible.

“To the socialist at present, the meaning of class struggle, international and dictatorship of the proletariat, must be clear. He must understand that socialism is not a reform philosophy. That the Socialist party is not a reform movement. He must know, that Socialism is a revolutionary world perspective, and that the Socialist movement is a revolutionary movement.

“In all countries of Europe the Socialist movement is going through a process of refinement. Those, who have considered it as a reform movement, and have not thoroughly grasped its basic philosophy, leave it. These are those Socialists, who have forgotten, that there is such a thing as workingmen’s internationale as soon as the war was declared. These are the Socialists who began to define and interpret such Socialistic formulae as, ‘Dictatorship of the Proletariat,’ as soon as the Russian Socialists found the possibility and opportunity of introducing the dictatorship, and did it.

“The Socialist now must grasp accurately what the state is, what a democracy is, and what his attitude as a Socialist must be to the state and to democracy. He must cease to be a moral preacher, but become a fighter. He must know that the Socialistic movement is a red movement, a movement with blood in the veins, which knows that nothing in life can be won without a struggle.

“The Socialist movement in America must in this regard be more cautious than the movements in European countries. There the process of refinement went on five whole years, from the day when the war broke out till now, and the

process there was a thorough one; the movements were shaken up from the very foundations. Every Socialist standpoint was widely and thoroughly discussed. The Socialist movements have there also had the task of acting, of creeping out of their theoretical strongholds and to assume a practical attitude, in many cases a dangerous attitude in the open field of practical politics. The Socialist programs in those countries are therefore clear, free from phrases, free from officious catchwords. Every word in those programs lives, and every Socialist who supports the programs breathes with the spirit of these words.

"In America we have had only the echo, the resonance of what happened in Europe. Our party was also shaken up, but only through forces that were carried hither from the other side of the ocean. We here, still carry on our discussions and debates in theoretical frames. And we cannot, therefore, feel the profound, burning truth, which these discussions seek to determine.

"There is, therefore, a danger that the 'housecleaning,' the refining process, will not be as thorough among us as it should be. There is a danger that the half and quarter Socialists which have in former years got into our party, would further remain in their places. That must not happen, that must be avoided.

"How? There is an advice for that. Let the true Socialists stand as sentinels, let them see that the Socialist programs strike with hot revolutionary blood. Let them bring it about that those dead letters of the Socialist doctrine, which used to be ignored altogether, should become alive and shall be the cornerstone for every Socialist in the movement.

"The great task of the Socialist movement is to create an army in the country, which should be ready to make the Socialist revolution, when the suitable moment arrives. This army must know its aims and the methods of attaining these aims. It must be in an intelligent army, every soldier in it must himself know the way, the plans, the strategy. The socialist soldiers must not be blind sheep under the command of a general. Such an army is good only in a fight for the darkness of reaction, not in a fight for light and freedom.

"At present it is not at all difficult to muster and instruct a socialist army.

The Witness.— And the Socialist,— oh, pardon me —

Mr. Sutherland.— Let me read that again:

“At present it is not at all difficult to muster and instruct a socialist army.

“Once the socialist theories were no more than theories for which one had to strain the powers of imagination, which had no connection with life proper, with the happenings of the day. Now, it is different, now the class struggle lives before us in all Europe; now exists the dictatorship of the proletariat in great Russia, and carries on war with the whole capitalistic world. The socialist revolution in its different phases occurs before our eyes. We see its beginning in one country, its despair in another country, its success in a third. We must not draw any more phantasies about it, dream about it, it is here. And every socialist in America, every one who attaches himself to this army in this country, needs only to look into the book of events and judge for himself if he has a correct idea, the right feelings and convictions that are required of the socialist soldier.”

(The witness was excused.)

Mr. Stanchfield.— Is Mr. Gerber here? Will you take the chair, Mr. Gerber?

WITNESS GERBER resumed the stand.

Direct examination by Mr. Stanchfield:

Mr. Gerber is recalled for further examination.

Q. Mr. Gerber, have you been served with a subpoena duces tecum, commanding you to produce records showing the names of the dues paying members of the Socialist Party in the counties of New York, Kings and Bronx? A. I have.

Q. Have you produced the papers therein called for? A. Not yet; it weighs about two tons.

Q. I will come to that in a moment. In what form are those papers? A. Cards.

Q. And are they in the form of cards such as introduced in evidence the other day? A. Yes.

Q. Now, you say that the cards which you have would weigh something like two tons? A. Well, they are pretty heavy.

Q. Well, are they in your custody? A. They are, sir.

Q. And where are they located? A. Seven East 15th street, the office of the party in New York.

Q. In the city of New York? A. If you will permit me, I want to say I only have the cards for Manhattan, New York County, and not for the other counties.

Q. Well, now, have you in tabulation in any form all the dues paying membership in the county of New York taken from the cards which you have in your possession? A. No, not up to date.

Q. Well, when you say not up to date what do you mean by that? A. They are not up to date, they may be about six months old.

Q. Well, have you in tabulated form the lists of dues paying members down to within six months? A. In cards.

Q. As represented by cards? A. Yes.

Q. Is that in book form? A. No, it is on cards.

Q. On cards? A. Yes, sir.

Q. Well, now, my question is, haven't you any summarization or tabulation of the cards? A. No.

Q. Then if you wanted to know the names of the dues paying members, if they are numbered, would you have to go — A. To go through these cards.

Q. In order to ascertain — A. If I wanted to know how Mr. Stanchfield stands, I would refer to a particular card.

Q. Do you have the cards indexed? A. They are.

Q. Where is the index book? A. There is no index book; simply indexed in the card file.

Q. But no separate book? A. No separate book.

Q. Is there any way in which you can — I don't desire to put you to any inconvenience — that you can furnish us access to these through one of our representatives to make a list? A. I suppose there is by arrangement with our counsel.

Mr. Stedman.— I would do that.

Mr. Stanchfield.— I would like to do that. I don't desire to force you to bring up those cards.

Mr. Stedman.— We can suggest that a party go there with one of our representatives. I will arrange with you.

Mr. Stanchfield.— That is all right, sir.

The Witness.— There are two big regular filing cases.

Mr. Stedman.— I think we can agree to a method.

Mr. Stanchfield.— That is all right, Mr. Stedman. All I want to get is a list.

Mr. Brown.— Better arrange at the same time for Bronx and Kings.

The Witness.— I have nothing to do with that, Mr. Brown.

Mr. Stanchfield.— Mr. Stedman, can we make the same arrangement in reference to the list of Kings and Bronx counties?

Mr. Stedman.— I have no doubt but what we can arrange that. I want to say all of our records and documents are open for your committee excepting one thing I want to call attention to. I don't think we should be placed in the position of making names public, and I say that because I don't want workingmen who belong to the organization, I don't want their names exposed where there would be any boycotting or harassing of those people in their positions.

Mr. Stanchfield.— I think we can take care of that.

Mr. Stedman.— Otherwise, everything we have is at the disposal of your committee.

The Chairman.— We will take care of that.

By Mr. Stanchfield:

Q. Now, Mr. Gerber, you produced here the other day this National Constitution and platform of the Socialist Party, and in looking at it I note that it is dated for the year 1917. Is there any later constitution than that? A. Not to my knowledge, not in print.

Q. Not in print. Well, is there any substantial amendment to it or changes in it? A. There have been amendments adopted at the Chicago convention held last August or September, last year, but I don't know whether they have been as yet adopted. All amendments voted have to go to the vote of the membership.

Q. Yes; and you are unadvised as to whether or no those

amendments have been adopted? A. I have not been advised whether they have been adopted or not.

Q. Were you present at the time when those amendments were introduced? A. I was.

Q. Was that in the National Committee of the Socialist Party? A. National Convention.

Q. Were they proposed in open convention? A. Open convention, sir.

Q. Do you recall as you sit there to what subjects or sections those amendments related? A. No, I recall some of them.

Q. Will you give them? A. If you can let me have the book.

Mr. Stedman.—I think we can furnish you with the complete proposition, and I can get the vote for you in a day or two, although my impression is that the vote is not completed from the States, but you have the ballot issued by the Convention, haven't you?

The Witness.—I have not; I couldn't find one in the office.

Mr. Stedman.—I will look and see if we can get one; I will telegraph for it.

Mr. Stanchfield.—Very well; you will also furnish us with copies of the amendments?

Mr. Stedman.—That would be the amendments. They went out on a ballot, each section proposed a place for voting no or yes on a national ballot. I think that is one there.

Mr. Brown.—Can we have the resolutions at the same time passed by that convention?

Mr. Stedman.—Yes, sir.

Q. I call your attention, Mr. Gerber, to an exhibit headed National Office Socialist Party, 220 South Ashland Boulevard, Chicago, Ill., October 25, 1919, headed "Members Individual Ballot," and ask you whether or no that is a correct statement of the proposed amendments to which you have reference and the preamble attending the same and the majority and minority reports out of the Committee, to whom they were referred? A. That looks like the copy sent out.

Mr. Stedman.—You say reports of the committees to which they were referred. For the record, on my referring to the fact,

there is a majority report and a minority report to be submitted to a referendum. That is the report made to the convention, and then the convention sends it out for adoption.

The Chairman.—And those that voted in the affirmative, by the general body, are declared adopted.

Mr. Stedman.—Affirmative or negative. The point is now, I do not think I am quite sure that the vote has all been completed from the different States, and I am objecting to it on the ground, that it has not yet been adopted by the membership.

Mr. Stanchfield.—I offer that in evidence.

The Chairman.—With that understanding on the record, I will receive it.

(Paper received and marked Exhibit 27, January 27, 1920.)

By Mr. Stanchfield:

Q. Then if I understand the situation, Mr. Gerber, with the exception of the proposed amendments, the adoption of which is as yet uncertain, there has been no other or further change in the constitution as introduced in evidence, of the year 1917? A. Not to my knowledge.

Q. I call your attention on page 2 to provision 6? A. Yes, sir.

Q. That, of course, remains in full force and effect? A. It has not been changed.

Q. It has not been changed? A. No.

Mr. Stanchfield.—I will read that section 6 of the constitution: "Any member of the Socialist Party, elected to an office, who shall in any way vote to appropriate moneys for military or naval purposes, or war, shall be expelled from the party."

By Mr. Stanchfield:

Q. It is also true that you produced here the by-laws of the Socialist Party for the county of New York, for the year 1918? A. Yes, sir.

Q. Marked Exhibit C? A. Yes, sir.

Q. Have they remained unchanged until the present time? A. They have not been changed.

Mr. Stanchfield.—Section 1 of Article 17, on the subject membership, reads as follows: "Any person 18 years of age or over, who agrees to abide by the national platform and constitution and resolutions of the Socialist Party may become a member of the party." That is still in force?

The Witness.—Yes, sir.

Mr. Stanchfield.—And under Article 28, "Eligibility for Political Office, Section 1: No member, shall be eligible to become a candidate for political office who has not been a member of the party in good standing continuously for at least 3 years." That is still in force?

The Witness.—Yes, sir.

Mr. Roe.—Both of those constitutions were read in the record.

Mr. Stanchfield.—Yes.

Mr. Stedman.—The entire constitution?

Mr. Roe.—That is my recollection.

Mr. Stedman.—The constitutions were not read in evidence. They were offered in evidence.

Mr. Stanchfield.—And I read excerpts, Mr. Roe.

The Chairman.—They are all in evidence for the purpose of this trial, if you want to use any part of them.

Mr. Stanchfield.—Certainly. That is quite correct, sir.

By Mr. Stanchfield:

Q. And you produced here, in response to a subpoena, and it has been offered in evidence, the state constitution of the Socialist Party; do you recall? A. Yes, sir.

Q. And is that in force substantially in its present form now? A. Yes, sir.

Mr. Stanchfield.—I read at this moment into the record from page 5, under the heading "Membership Cards and Constitution. There shall be issued to each member on admission a membership card of the form prescribed by the state executive committee, such card to be signed by the financial secretary of the local of

which the applicant becomes a member; or in case of a member at large, by the state secretary. With the membership card each member shall receive a copy of the state and national constitutions."

Now, in connection with those excerpts from those by-laws, to which I have called your attention, I will read Section 1 of Article 11 and Section 3 of article 11 of the Constitution of the State of New York, reminding the Committee that there is already in evidence the oaths of each of the five men under investigation "I solemnly swear I will obey the constitution of the State of New York."

"Section 1. All able-bodied male citizens, between the ages of 18 and 45 years, who are residents of the State, shall constitute the militia, subject, however, to such exemptions as are now or may be hereafter created by the laws of the United States, or by the Legislature of the State.

"3. Organization of militia. The militia shall be organized and divided into such land and naval and active and reserve forces as the Legislature may deem proper; provided, however, that there shall be maintained at all time a force of not less than 10,000 enlisted men, fully uniformed, armed, equipped, disciplined and ready for active service; and it shall be the duty of the Legislature at each session to make sufficient appropriation for the maintenance thereof."

Mr. Stanchfield.— Now, Mr. Stevenson, will you let me have the "Call" for November 6, 1919?

Q. They have not been changed? A. No.

(Mr. Stevenson hands the requested paper to Mr. Stanchfield.)

By Mr. Stanchfield:

Q. I call your attention, Mr. Gerber, to a copy of the New York Call, published Thursday, November 6, 1919, and ask you whether there is not published therein an advertisement of the celebration of the second anniversary of the Russian Soviet Republic? A. Yes.

Q. Mr. Stanchfield.— I offer that in evidence, as preliminary, Mr. Chairman.

The Chairman.— It is received.

(The issue of the New York Call — Thursday, November 6, 1919, was received, and marked Exhibit 27 in evidence, of this date, and is as follows):

"ALL STAR PROGRAMS

"CELEBRATION OF THE SECOND ANNIVERSARY RUSSIAN SOVIET REPUBLIC

"Read carefully this remarkable list of speakers, every one of whom each night are drawing capacity audiences, with themselves as the main feature of the program. Think of being able to hear ALL of them at the one meeting!

"BRONX — TO-NIGHT

"Hunt's Point Palace, 163rd and Southern Boulevard

"*Speakers:*

"GREGORY ZILBOORG, Sec. Dept. of Labor Under Zerenski

"WILFRED HUMPHRIES, For 14 Months With Red Cross in
Russia

"A. RHYS WILLIAMS, Eye Observer of the Russian Revolution

"GERTRUDE TOBINSON, Speaking from Bitter, Personal Ex-
perience

"NORMAN THOMAS

"MUSICAL PROGRAM

"Chairman FRED PAULITSCH

"Auspices Local Bronx, Socialist Party

"8 P. M.

Admission, 25c.

"NEW YORK — TO-MORROW NIGHT

"PARK VIEW PALACE, 110th Street and Fifth Avenue

"*Speakers:*

"SANTERI NUORTEVA, Secretary to the Russian Soviet Bureau

"SCOTT NEARING will be the opening Speaker

"WILFRED HUMPHRIES

"AUGUST CLAESSENS, Assemblyman that is, and will be Special
Feature

"SPECIAL FEATURE.— Singing of Russian Revolutionary Songs by the Socialist Chorus of 60 voices, under the direction of Louis Lochner.

"Chairman, ALEXANDER TRACHTENBERG

"Auspices Local New York, S. P.

"ADMISSION FREE

**"TELL ALL YOUR FRIENDS ABOUT THESE
REMARKABLE MEETINGS**

tonight in the Bronx and tomorrow night in New York. Let your presence show your resentment at the lies told about the Russian Soviet Government."

Mr. Stanchfield.— I now offer in evidence, if the Committee please, by arrangement with Mr. Stedman, subject to his right to cross-examine, at a later period, the stenographer who took the speech.

Mr. Stedman.— I want to object to it as incompetent, on the ground that the Assemblymen here would not be responsible for a meeting held independent of their activity, and especially of a speech made by a person there over whom they had no control, there being no evidence indicated that they suggested him to go there to address the meeting.

The Chairman.— Overruled.

Mr. Stanchfield.— I read from page 3 —

Mr. Stedman.— What date is this?

Mr. Stanchfield.— This was the same meeting at which Claessens spoke on the 7th of November, 1919, at Park View Palace, in the city of New York.

Mr. Stanchfield (reading):

"Chairman Comrade Alexander Trachtenberg: Now, Comrades, we will have to celebrate this matter very swiftly. Comrades, we will have, I say, to celebrate the anniversary of the Russian Revolution very swiftly tonight, because we have the several meetings to cover with the same number of speakers. By the way, there are tonight, perhaps, a dozen meetings being held throughout this city, celebrating the very

same occasion, but here in this very hall we have a meeting here, a meeting downstairs, and I understand that people are going now to the cellar. We will have a meeting there and then one outside (laughter).

"This meeting has been arranged by the Socialist Party of New York County, to celebrate the second anniversary of the proletarian revolution which took place in Russia on November 7th, 1917. Those of you who are members of the party, those of you who are Socialist sympathizers, those of you who read the Call or Forwards, or any other Socialist publication, are well acquainted with the history of the Russian revolution beginning March, 1917, up to the uprising in 1917, in November, and the establishment of a Soviet Government. When we celebrate the second anniversary of the Russian revolution, as we celebrate the first anniversary, and in fact as we celebrate the establishment of the Soviet Government, we always try to draw a few lessons for us in America, for the organized labor, and Socialist movement in this country, because there is no use having revolutions somewhere else if the workers of the other countries cannot profit by it.

"The reason for such a thing as an isolated revolution in some corner of the earth, where the people of the other parts of the world will not profit by it — and therefore, on this second anniversary, we ought to think, and think very deeply as to what the meaning is of that revolution; what it means not only to the Russian worker; what it means to the workers of the world; what it means to the movement we have been working for and fighting for for so many years, and what it means for us in the future. It seems to me as it seems to the Socialists of America that this establishment of the workers' government in Russia proves one thing, that if the workers are organized, organized politically and economically, and organized in a way we have to understand not only their immediate conditions, not only their immediate requirements, but understand the great purpose of an organized labor movement, with them to understand the great mass of the working class and what they have to perform in this world — then we can have not only a Soviet Russia, but a Soviet Government in England, Germany, and a Soviet America, just as well. (Applause.) We can, comrades, take great heart in what the Russian workers have accomplished; and at this

very minute when we are celebrating the second anniversary, we are celebrating not only the establishment of some ethereal thing, not an idle thing, but some very concrete proposition (applause; here the flag of the Russian Soviet was exposed amidst loud applause). And we are really celebrating the working out of the Socialist revolutionary program, which the Russian workers have been promulgating for the past twenty-five or thirty years.

“We are now celebrating the working out of the practical dream, not a purely idle dream, but a practical dream, of those of the Russian revolutionists who have organized the Russian Socialist away back there, and have now brought fruit.”

Mr. Stanchfield.— It says “fruit”; but it means fruition, of course. (Reading):

“We must then take this lesson, but if the American working class were organized on the same basis as the Russian workers were, fully understanding the mission of the working class, we probably to-day in America would perhaps be celebrating our own establishment of a working government, our own establishment of a Soviet government, instead of only celebrating what has happened there on the other side of the ocean.

“The Socialist party is very anxious in organizing these meetings, in putting forth proclamations on this subject, to call attention to the workers of America, that the Russian Socialist revolution in November, 1917, teaches the workers of the world that great lesson, that solidarity, class consciousness, sacrificial idealism which Russian workers have manifested in this great work, is not only purely a Russian method, but it is an international method; and if our hearts and our minds link together with those Russian comrades and we understand them, then we know what it is up to us to do in this country.

“I have no more to tell you. You reason it out for yourselves.

“I do not want to take too much time here, because, as I said, the speakers must be used three or four times to-night; and, therefore, before taking up any more of your time I shall introduce as the first speaker, a comrade, who, as far as

we are concerned, as far as the Socialist Party is concerned, has been elected Alderman from this district.

"They say he was defeated by thirty votes; but those of you who know elections know that if he only opened the ballot box in one election district Comrade Cassidy will be a member of the Board of Aldermen.

"I take great pleasure in introducing our old comrade, the workers in the trade unions and Socialist movement, Comrade Cassidy."

By Mr. Stanchfield:

Q. Mr. Gerber, do you know approximately about what the circulation of the New York Call is at the present time? A. I don't know exactly, but I can tell you 40,000 in New York City.

Q. And has it a circulation outside of New York City? A. It has.

Q. In the Bronx and in Kings County? A. Well, that is a part of New York City, sir.

Q. Well, when you say thirty or forty thousand you mean in the greater city of New York? A. Yes.

Mr. Stedman.—I think that document contains Nuorteva's speech. May I look at it, Mr. Stanchfield?

Mr. Stanchfield.—Yes, I think it does.

Mr. Stedman.—When you are through with it may I take it?

Mr. Stanchfield.—Yes, sir.

Mr. Gerber, if you will step aside I wish to ask a question, and will Mr. Smart take the stand.

WILLIAM F. SMART recalled:

By Mr. Stanchfield:

Q. Mr. Smart, you testified the other day that you were the stenographer who was in attendance at the meeting of the celebration of the Second Anniversary of the Russian Soviet Republic held in New York City on November 9th, at 8 p. m., do you recall? A. November 7th.

Q. November 7th? A. Yes, sir.

Q. 1919? A. Yes, sir.

Q. Now, you reported the speech of the Chairman Trachtenberg, I have just read? A. Yes, sir.

Q. And reported it correctly? A. Yes, sir.

Q. During the making of that speech by Chairman Trachtenberg, was Assemblyman August Claessens present? A. I don't know whether he was present during the speech, sir.

Q. He was present at the meeting? A. He was present at the meeting; yes, sir.

Q. And you reported his speech as you testified the other day? A. Yes, sir.

Q. Did you take all of the speeches that are embraced in the volume you handed me and that has been marked or is marked upon the outside, No. 11? A. Yes, sir.

Q. And that includes among others, a speech of Santeri Nuorteva? A. Yes, sir.

Q. And were all the speeches embraced in this volume correctly reported? A. Yes, sir.

Q. By you? A. Yes, sir.

Mr. Stanchfield.—Now, Mr. Stedman, you said you might want to ask something?

Mr. Stedman.—Yes.

Cross examination by Mr. Stedman:

Q. Where were you born? A. London, England.

Q. Are you a citizen? A. Yes, sir.

Q. Since when? A. I was a citizen —

Q. When did you become a citizen? A. I am just telling you, sir; in November, 1917.

Q. Who employed you to go to these meetings? A. I received instructions from the Lusk Committee.

Q. And were you employed and paid for by the Lusk Committee? A. Yes, sir.

Q. What say? A. Yes.

Q. When were you employed first? A. I was first employed by the Department of Justice and afterwards by the Lusk Committee.

Q. When by the Lusk Committee? A. I don't remember the exact date.

Q. Do you remember the month? A. I can give you the exact date by referring to my books, sir, but I cannot say from memory.

Q. You were employed before that by the Department of Justice? A. Yes, sir.

Q. How long before? A. I have been reporting these speeches for roughly two years.

Q. To whom did you render copies of these speeches? A. To the Lusk Committee, sir.

Q. When you say they are correctly reported, of course you make allowances for mistakes which are ordinarily made by stenographers in reporting speeches? A. I think we all make mistakes, sir.

Mr. Stedman.— That is all.

By the Chairman:

Q. The Claessens speech and Nuorteva speech were made the same night? A. Yes, sir.

Q. Before the same audience? A. Yes, sir.

Mr. Stedman.— That is all.

Mr. Stanchfield.— That is all for the moment, Mr. Smart.

Mr. Stanchfield.— It is now 12:30 P. M. Shall I call another witness or shall we adjourn?

The Chairman.— The investigation stands adjourned until 2 P. M.

Whereupon, at 12:30 P. M., a recess was taken until 2 P. M.

AFTER RECESS

(After recess the Committee met pursuant to adjournment at 2:05 P. M.)

Mr. Stanchfield.— Mr. Kauffman.

Mr. Stedman.—Mr. Chairman, I would like to ask another question of Mr. Smart, either where he is located or over here.

Mr. Stanchfield.—Take the witness chair, Mr. Smart.

WILLIAM F. SMART, recalled, testified as follows:

Cross-Examination continued by Mr. Stedman:

Q. Mr. Smart, when did you make your declaration to become a citizen? A. I think it was in 1912, sir. I became a citizen in 1917. I have my card here.

Mr. Brown.—You said 1919 this morning?

The Witness.—Yes.

By Mr. Stedman:

Q. You were mistaken in your answer this morning, then; is that correct? A. Yes, sir, I have looked at the card, it is 1917.

Q. In your work with the Lusk Committee, or in any of your other work, were you associated with R. L. Nathan? A. No, sir, I have never seen the gentleman or heard of him except in the papers.

Redirect-examination by Mr. Stanchfield:

Q. Mr. Smart, you know Assemblyman Claessens, do you not? A. Yes, sir.

Q. And last week did you attend a meeting where he made a speech? A. The day after I testified here, on the 23d, I attended a meeting at which Mr. Claessens spoke.

Q. And did he say anything there as to whether or no you had correctly reported him? A. Yes, sir. I have his speech here, and he said that I had very well reported him. I can read his exact words.

Q. That is all, Mr. Smart. A. Are you through with me, sir?

Mr. Stedman.—Yes.

The Witness.—Thank you very much.

ISRAEL KAUFFMAN, recalled, testified as follows:

Direct-examination by Mr. Sutherland:

Q. You are the same Mr. Kauffman who was sworn in this proceeding the other day? A. I am, yes, sir.

Q. Did you, on the 29th of December, at the city of Rochester, go to 580 St. Paul street in that city? A. I did.

Q. Is that a building where various societies or organizations have their meeting places? A. Yes, sir.

Q. Did you there, under a search warrant, obtain possession of certain papers and documents and books? A. I did, sir.

Q. Is the letter which I now show you one of the documents or letters that you took in your possession at that time? A. Yes, sir.

Q. And where did you find that letter? A. I found that in the desk in room No. 3.

Q. Of that building? A. Yes, sir.

Mr. Sutherland.—I ask to have that read in evidence.

Mr. Stedman.—It should be marked first and identified as an exhibit.

Mr. Sutherland.—There is not any question about what that is.

The Chairman.—Well, it should be marked and then Mr. Stedman has the right of objecting.

Mr. Sutherland.—I want to offer it in evidence. I want it marked for identification for the moment.

(Letter referred to marked for identification Exhibit No. 28. This exhibit handed by Mr. Sutherland to Mr. Stedman for examination.)

Mr. Stedman.—It is objected to as incompetent and no connection with the defendants is shown with the Edwin Firth, whoever he may be. There is no identification of Edwin Firth with the National office of the Socialist Party.

The Chairman.—Overruled.

Mr. Sutherland.— I read this in evidence then.

(Exhibit No. 28 is as follows):

"SOCIALIST PARTY

"NATIONAL OFFICE

"Executive Secretary: Adolph Germer

803 West Madison Street

"CHICAGO, ILL., 5/21/1919.

Local Rochester, C. M. O'Brien, 580 St. Paul St.,
Rochester, N. Y.:

"DEAR COMRADE.— Your order of May 2nd, received and filled May 20th. We are sorry for this delay but owing to a falldown on the part of the company manufacturing these buttons and the great demand recently we have been temporarily unable to keep up with the orders. I have two companies now working on all buttons and we should have a stock ahead in the next few days.

"I am pleased to announce the publication of two vital documents in pamphlet form, namely, "The Manifesto Communist International" issued 1919 by the Soviets of Russia at Moscow to the toiling masses of the world. This is undoubtedly the greatest declaration ever issued from any working class tribunal since the Communist Manifesto of Marx and Engles. This retails for ten cents—price to locals \$6.50 the hundred; the second is "The Constitution World's First Socialist Republic" in attractive red pamphlet form to sell for five cents. Cost to Locals \$2.50 per hundred.

"Samples of Debs protest publicity enclosed.

"Thanking you for your orders and hoping to be of service in the future, I remain,

"Fraternally yours,

"(Signed) EDWIN FIRTH.

"Literature Dept."

I want that marked as an Exhibit.

(The paper was received in evidence and marked Exhibit No. 28.)

By Mr. Sutherland:

Q. At the same time and place did you take into your possession certain books of which this is one? (Handing book to witness.)

A. Yes, sir.

Q. How many copies of this book that I just showed you did you take into your possession? A. Three copies, sir.

Mr. Sutherland.— Mark that for identification.

(The book referred to was marked Exhibit No. 29 for identification.)

Q. What did you do with the three copies? A. One of the copies was given to Mr. Samuel Berger, one of the Deputy Attorney-Generals of this State, another copy was given to the Lusk Committee, and one at the present time is held with the Property Clerk of the City of Rochester, who sent the same to the Grand Jury to be used as evidence against the men under arrest for criminal anarchy at the present time.

Mr. Sutherland.— I offer this book in evidence. It is the book referred to in the letter just read.

Mr. Stedman.— I am objecting to it on the ground that there is nothing to identify this book with the Socialist Party, with the National or local, or any other organization of the party.

The Chairman.— Overruled.

Mr. Sutherland.— Now mark it as an exhibit.

(The book was received in evidence and marked Exhibit No. 29.)

Mr. Sutherland.— This, I may say, Mr. Chairman, on the back page is listed as one of the publications issued by the literature department of the Socialist Party. You will recall the fact that their constitution provides for the organization and maintenance of such a department.

This title page is "Manifesto of the Communist International," "Adopted by the Congress of the Communist International at Moscow, March 26th, 1919," and signed by Comrades C. Rakovsky, N. Lenin, M. Zinovjev, L. Trotzky and Fritz Platten."

"INTRODUCTION

"This document contains the first authentic, direct message from the conquering proletariat of Great Russia to the

toiling masses of the world. It breathes an appeal, a demand that will be heard wherever the masses are ground under the heel of imperialistic capitalism and is a glittering milestone on the road to working class power throughout the world. This manifesto is the first official document of the Communist International that was founded at Moscow, Russia. Since the Communist Manifesto by Marx and Engles it is the most vital and important proclamation issued by any working-class tribunal. It will soon become the basis of international working-class action, and will become the lightning that will rend the clouds and fogs that now envelop the workers of the world.

"Comment on this Manifesto would be useless, superfluous. Its magnificent language speaks the message a suffering world is eagerly waiting to hear. It speaks the plain, clear language of the revolutionary, communistic proletariat.

"Its remorseless and scientific criticism of the political and economic fallacies that pass for Socialist activity in some circles is one of the most valuable contributions to radical literature of the present day. Reformistic opportunism is pilloried as it deserves to be. It will assist the Socialist movement everywhere into the path of uncompromising, revolutionary action that alone can usher in the triumph of International Socialism.

"TO THE PROLETARIAT OF ALL LANDS!

"Seventy-two years have gone by since the Communist Party of the World proclaimed its program in form of the Manifesto written by the greatest teachers of the proletarian revolution, Karl Marx and Frederick Engles. Even at that early time, when Communism had scarcely come into the arena of conflict, it was hounded by lies, hatred and calumny of the possessing classes, who rightly suspected in it their mortal enemy. During these seven decades Communism has traveled a hard road; storms of ascent followed by period of sharp decline; successes, but also severe defeats. In spite of all, the development at bottom went the way forecast by the Manifesto of the Communist Party. The epoch of the last decisive battle came later than the apostles of the social revolution expected and wished. But it has come.

"We Communists, representatives of the revolutionary proletariat of the different countries of Europe, America and Asia, assembled in Soviet Moscow, feel and consider ourselves followers and fulfillers of the program proclaimed seventy-two years ago. It is our task now to sum up the practical revolutionary expense of the working class, to cleanse the movement of its admixtures of opportunism and social patriotism, and to gather together the forces of all the true revolutionary proletarian parties in order to further and hasten the complete victory of the communist revolution.

" I

"For a long span of years, Socialism predicted the inevitableness of the imperialistic war; it perceived the essential cause of this war in the insatiable greed of the possessing classes in both camps of capitalist nations. Two years before the outbreak of the war, at the Congress of Basle, the responsible Socialist leaders of all countries branded Imperialism as the instigator of the coming war, and menaced the bourgeoisie with the threat of the Socialist revolution — the retaliation of the proletariat for the crimes of militarism. Now, after the experience of five years, after history has disclosed the predatory lust of Germany, and has unmasked the no less criminal deeds on the part of the Allies, the State Socialists of the Entente nations, together with their governments, again and again unmask the deposed German Kaiser. And the German social patriots, who in August, 1914, proclaimed the diplomatic White Book of the Hohenzollern as the holiest gospel of the people, to-day, in vulgar sycophancy, join themselves with the Socialists of the Entente lands to accuse as arch-criminal the deposed German monarchy which they formerly served as slaves. In this way they hope to erase the memory of their own guilt and to gain the good will of the victors. But alongside the dethroned dynasties of the Romanoffs, Hohenzollerns and Hapsburgs, and the capitalistic cliques of these lands, the rulers of France, England, Italy and the United States stand revealed in the light of unfolding events and diplomatic disclosures in their immeasurable vileness.

"The contradictions of the capitalist system were converted by the war into beastly torments of hunger and

cold, epidemics and moral savagery, for all mankind. Hereby also the academic quarrel in Socialism over the theory of increasing misery, and also of the undermining of Capitalism through Socialism, is now finally determined. Statisticians and teachers of the theory of reconciliation of these contradictions have endeavored for decades to gather together from all corners of the earth real and apparent facts which evidence the increasing well-being of the working class. Today abyssmal misery is before our eyes, social as well as physiological, in all its shocking reality.

“Finance-capital, which threw mankind into the abyss of war, has itself suffered catastrophic changes during the course of the war. The dependence of paper money upon the material basis of production was completely destroyed. More and more losing its significance as medium and regulator of capitalistic commodity circulation, paper money becomes merely a means of exploitation, robbery, of military-economic oppression. The complete deterioration of paper money now reflects the general deadly crisis of capitalist commodity exchange.

“As free competition was replaced as regulator of production and distribution in the chief domains of economy, during the decades which preceded the war, by the system of trusts and monopolies, so the exigencies of the war took the regulating role out of the hands of the monopolies and gave it directly to the military power. Distribution of raw materials, utilization of petroleum from Baku or Roumania, of coal from Donetz, of cereals from the Ukraine; the fate of German locomotives, railroad cars and automobiles, the provisioning of famine-stricken Europe with bread and meat — all of these basic questions of the economic life of the world are no longer regulated by free competition, nor yet by combinations of national and international trusts, but through direct application of military force.

“Just as complete subordination of the power of the State to the purposes of finance-capital led mankind to the imperialistic shambles, so finance-capital has, through this mass slaughter, completely militarized not alone the State, but also itself. It is no longer able to fulfill its essential economic functions otherwise than by means of blood and iron.

"The opportunists who before the war exhorted the workers, in the name of the gradual transition into Socialism, to be temperate; who, during the war asked for submission in the name of Burgfrieden and defense of the Fatherland, now again demand of the workers self-abnegation to overcome the terrible consequences of the war. If this preaching were listened to by the workers capitalism would build out of the bones of several generations a new and still more formidable structure, leading to a new and inevitable world war. Fortunately for humanity this is no longer possible.

"The absorption by the State of the economic life, so vigorously opposed by capitalist Liberalism, has now become a fact. There can be no return either to free competition nor to the rule of the trusts, syndicates and other economic monsters. The only question is who shall be the future mainstay of state production, the imperialistic State or the State of the victorious proletariat. In other words, shall the entire working humanity become the feudal bond-servants of the victorious Entente bourgeoisie, which under name of a League of Nations aided by an 'international' army and an 'international' navy here plunders and murders, there throws a club, but everywhere enchains the proletariat, with the single aim of maintaining its own rule? Or will the **working class** take into its own hands the disorganized and shattered economic life and make certain its reconstruction on a Socialist basis?

"Only the Proletarian Dictatorship, which recognizes neither inherited privileges nor rights of property, but which arises from the needs of the hungering masses, can shorten the period of the present crisis; and for this purpose it mobilizes all materials and forces, introduces the universal duty of labor, establishes the regime of industrial discipline, this way to heal in the course of a few years the open wounds caused by the war and also to raise humanity to a new undreamed of height.

"The national State, which was given a tremendous impulse by capitalistic evolution has become too narrow for the development of the productive forces. And even more untenable has become the position of the small States, distributed among the great powers of Europe and in other parts of the world. These small States, as petty currency in payment

for services rendered, to serve as strategic buffer States. They too, have their dynasties, their ruling gangs, their imperialistic pretensions, their diplomatic machinations. Their illusory independence had until the war precisely the same support as the European balance of power; namely, the continuous opposition between the two imperialistic camps. The war has destroyed this balance. The tremendous preponderance of power which the war gave to Germany in the beginning compelled these smaller nations to seek their welfare and safety under the wings of German militarism. After Germany was beaten the bourgeoisie of the small nations, together with their patriotic 'Socialists,' turned to the victorious Imperialism of the Allies and began to seek assurance for their further independent existence in the hypocritical points of the Wilson program. At the same time the number of little States has increased; out of the unity of the Austrian-Hungarian monarchy, out of the different parts of the Czarist Empire, new sovereignties have formed themselves. And these, as soon as born, jump at each other's throats on account of their frontier disputes. Meanwhile the Allied Imperialists brought about certain combinations of new and old small States through the cement of mutual hatreds and general weakness. Even while violating the small and weak peoples and delivering them to famine and degradation, the Entente Imperialists, exactly as the Imperialists of the Central Powers, before them, did not cease to talk of the right of self-determination of all peoples, a right which is now entirely destroyed in Europe and in the rest of the world.

"Only the proletarian revolution can secure the existence of the small nations, a revolution which frees the productive forces of all countries from the restrictions of the national States, which unites all peoples in the closest economic co-operation on the basis of a universal economic plan, and gives even to the smallest and weakest peoples the possibility freely and independently to carry on their national culture without detriment to the united and centralized economy of Europe and of the whole world.

"The last war, after all a war against the colonies, was at the same time a war with the aid of the colonies. To an unprecedented extent the population of the colonies was drawn into the European war. Indians, Arabs, Madagascans battled on the European continent — what for? — for their

right to remain slaves to England and France. Never did capitalist rule show itself more shameless, never was the truth of colonial slavery brought into such sharp relief. As a consequence we witnessed a series of open rebellions and revolutionary ferment in all colonies. In Europe itself it was Ireland which reminded us in bloody street battles that it is still an enslaved country and feels itself as such. In Madagascar, in Annam, and in other countries, the troops of the bourgeois Republic have had more than one insurrection of the colonial slaves to suppress during the war. In India the revolutionary movement has not been at a standstill for one day, and lately we have witnessed the greatest labor strike in Asia, to which the government of Great Britain answered with armored cars.

"In this manner the colonial question in its entirety became the order of the day, not alone on the green table of the diplomatic conferences at Paris, but also in the colonies themselves. The Wilson program, at the very best, calls only for a change in the firm name of colonial enslavement. Liberation of the colonies can only happen together with liberation of the working class of the capital cities. The workers and peasants not only of Annam, Algeria, Bengal, but also of Persia and Armenia, can gain independent existence only after the laborers of England and France have overthrown Lord George and Clemenceau and taken the power into their own hands. Even now in the more advanced colonies the battle goes on not only under the flag of national liberation, but it assumes also an open and outspoken social character. Capitalistic Europe has drawn the backward countries by force into the capitalistic whirlpool, and Socialistic Europe will come to the aid of the liberated colonies with its technique, its organization, its spiritual influence, in order to facilitate their transition into the orderly system of socialistic economy.

"Colonial slaves of Africa and Asia! The hour of triumph of the proletarian dictatorship of Europe will also be the hour of your liberation!

II.

"The entire bourgeois world accuses the Communists of destroying liberties and political democracy. That is not true. Having come into power the proletariat only asserts

the absolute impossibility of applying the methods of the bourgeois democracy and creates the conditions and forms of of a higher working class democracy. The whole course of capitalistic development undermined political democracy not only by dividing the nation into two irreconcilable classes, but also by condemning the numerous petty bourgeois and half proletarian elements, as well as the slum proletarian to permanent economic stagnation and political impotence.

"In those countries in which the historical development has furnished the opportunity, the working class has utilized the regime of political democracy for its organization against capitalism. In all countries where the conditions for a workers' revolution are not yet right, the same process will go on. But the great middle layers on the farm lands, as well as in the cities, are hindered by capitalism in their historic development and remain stagnant for whole epochs. The peasant of Bavaria and Baden who does not look beyond his church spire, the small French winegrower who has been ruined by the adulterations practiced by the big capitalists, the small farmer of America plundered and betrayed by bankers and legislators—all these social ranks which have been shoved aside from the main road of development by capitalism, are called on paper by the regime of political democracy to the administration of the State. In reality, however, the finance oligarchy decides all important questions which determine the destinies of nations behind the back of parliamentary democracy. Particularly was this true of the war question. The same applies to the question of peace.

"If the finance oligarchy considers it advantageous to veil its deeds of violence behind parliamentary vote, then the bourgeois state has at its command in order to gain its ends all the traditions and attainments of former centuries of upper class rule multiplied by the wonders of capitalistic technique: lies, demagogism, persecution, slander, bribery, calumny and terror. To demand of the proletariat in the final life and death struggle with capitalism that it should follow lamb-like the demands of bourgeois democracy would be the same as to ask a man who is defending his life against robbers to follow the artificial rules of a French duel that have been set by his enemy but not followed by him.

"In an empire of destruction, where not only the means of production and transportation but also the institutions of political democracy represent bloody ruins, the proletariat must create its own forms, to serve above all as a bond of unity for the working class and to enable it to accomplish a revolutionary intervention in the further development of mankind. Such apparatus is represented in the workmen's councils. The old parties, the old unions, have proved incapable, in person of their leaders, to understand, much less to carry out the tasks which the new epoch presents to them. The proletariat created a new institution which embraces the entire working class, without distinction of vocation or political maturity, an elastic form of organization capable of continually renewing itself, expanding, and of drawing into itself ever new elements, ready to open its doors to the working groups of city and village which are near to the proletariat. This indispensable autonomous organization of the working class in the present struggle and in the future conquests of different lands, tests the proletariat and represents the greatest inspiration and the mightiest weapon of the proletariat of our time.

"Whenever the masses are awakened to consciousness, Workers, Soldiers and Peasants Councils will be formed."

The Chairman (interrupting).—Is that all placed in evidence?

Mr. Sutherland.—Yes, sir. This, Mr. Chairman, is the Manifesto sent to this country by Lenine and Trotsky calling for the organization of a Third Internationale. It will be followed in its reading by the response from the National Convention of the Socialist Party which met last September, 1919. It is very important to get this whole thing because—

The Chairman.—All right.

Mr. Sutherland.—The response follows it almost word for word. It is two souls with but a single thought; two hearts that beat as one (laughter).

The Chairman.—Proceed.

Mr. Sutherland (reading):

"Whenever the masses are awakened to consciousness, workers', soldiers' and peasants' councils will be formed.

To fortify these councils, to increase their authority, to oppose them to the State apparatus of the bourgeoisie, is now the chief task of the class-conscious and honest workers of all countries. By means of these councils the working class can counteract that disorganization which has been brought into it by the infernal anguish of the war, by hunger, by the violent deeds of the possessing classes, and by the betrayal of their former leaders. By means of these councils the working classes will gain power in all countries most readily and most certainly when these councils gain the support of the majority of the laboring population. By means of these councils the working class, once attending power, will control all the fields of economic and cultural life, as in the case of Russia at the present time.

“The collapse of the imperialistic State, czaristic to most democratic, goes on simultaneously with the collapse of the imperialistic military system. The armies of millions, mobilized by imperialism, could remain steadfast only so long as the proletariat remained obedient under the yoke of the bourgeoisie. The complete breakdown of national unity signifies also an inevitable disintegration of the army. Thus it happened, first in Russia, then in Austria-Hungary, then in Germany. The same also is expected in other imperialistic States. Insurrection of the peasants against the landowner, of laborer against capitalist, of both against the monarchic or ‘democratic’ bureaucracy, must lead inevitably to the insurrection of soldier against commander and, furthermore, to a sharp division between the proletarian and bourgeois elements within the army. The imperialistic war which pitted nation against nation, has passed and is passing into the civil war which lines up class against class.

“The outcry of the bourgeois world against the civil war and the red terror is the most colossal hypocrisy of which the history of political struggles can boast. There would be no civil war if the exploiters who have carried mankind to the very brink of ruin had not prevented every forward step of the laboring masses, if they had not instigated plots and murders and called to their aid armed help from outside to

maintain or restore the predatory privileges. Civil war is **FORCED UPON** the laboring classes by their arch-enemies. The working class must answer blow for blow, if it will not renounce its own object and its own future which is at the same time the future of all humanity.

“The communist parties, far from conjuring up civil war artificially, rather strive to shorten its duration as much as possible — in case it has become an iron necessity — to minimize the number of its victims, and above all to secure victory for the proletariat. This makes necessary the disarming of the bourgeoisie at the proper time, the arming of the laborers, and the formation of a communist army as the protector of the rule of the proletariat and the inviolability of the social structure. Such is the Red Army of Soviet Russia which arose to protect the achievements of the working class against every assault from within or without. The Soviet Army is inseparable from the Soviet State.

“Conscious of the world-historic character of their mission, the enlightened workers strove from the very beginning of the organized socialistic movement for an international union. The foundation-stone of this union was laid in the year 1864 in London, in the first International. The Franco-Prussian War, from which arose the Germany of the Hohenzollerns, undermined the First International, giving rise at the same time to the national labor parties. As early as 1889 these parties united at the Congress of Paris and organized the Second International. But during this period the center of gravity of the labor movement rested entirely on national ground, confining itself within the realm of national parliamentarism to the narrow compass of national states and national industries. Decades of organizing and labor reformism created a generation of leaders most of whom gave verbal recognition to the program of social revolution but denied it in substance. They were lost in the swamp of reformism and adaptation to the bourgeoisie state. The opportunistic character of the leading parties of the Second International was finally revealed — and led to the greatest collapse of the movement in all its history — when events required revolutionary methods of warfare from the labor parties. Just as the war of 1870 dealt a deathblow to the First International by revealing that there was not in fact any compact power of the masses, so the war of 1914 killed

the Second International by showing that above the consolidated labor masses there stood labor parties which converted themselves into servile organs of the bourgeois state.

"This includes not only the social patriots who today are openly in the camp of the bourgeoisie as preferred confidential advisers and reliable hangmen of the working class, but also the hazy, fickle and irresolute socialist CENTER which is today trying to revive the Second International, i. e., the narrowness, opportunism and revolutionary impotence of their predecessors. The Independents of Germany, the present majority of the Socialist party in France, the Independent Labor party in England, and similar groups, are actually trying to re-establish themselves in the position which the old official parties of the Second International held before the war. They appear as before with proposals of compromise and conciliation and thereby paralyze the energy of the proletariat, lengthening the period of crisis and consequently increasing the misery of Europe. War against the Socialist Center is a necessary condition of successful war against Imperialism.

"Spurning the half-heartedness, hypocrisy and corruption of the decadent official socialistic parties, we, the Communists assembled in the Third International, feel ourselves to be the direct successors of the heroic efforts and martyrdom of a long series of revolutionary generations from Baboeuf to Karl Liebknecht and Rosa Luxembourg. As the First International foresaw the future development and pointed the way; as the Second International gathered together and organized millions of the proletariat, so the Third International is the International of open mass-action of the revolutionary realization, the INTERNATIONAL OF DEEDS. Socialistic criticism has sufficiently stigmatized the bourgeois world order. The task of the International Communist party is now to overthrow this structure and to erect in its place the structure of the socialist world order. We urge the working men and women of all countries to unite under the Communist banner, the emblem under which the first great victories have already been won.

"Proletarians of all lands! In the war against imperialistic barbarity, against the monarchy, against the privileged classes, against the bourgeois state and bourgeois property,

against all forms and varieties of social and national oppression — Unite!

“Under the standard of the Workingmen’s Councils, under the banner of the Third International, in the revolutionary struggle for power and the Dictatorship of the Proletariat, proletarians of all countries — Unite!”

Mr. Sutherland.—Then follows the governing rules of the Communistic International. If the committee do not think it necessary to read all that, I would like to read portions of it, but we wish to be absolved from any suggestion from anybody or from the press that we are picking out any part of the document which is favorable to one contention and ignoring any part that may reflect some different light upon the subject. That is why I read it all.

The Chairman.—I guess you better read all of that.

“GOVERNING RULES OF THE COMMUNISTIC INTERNATIONAL.

“Humanity, with its entire culture now lying in ruins,

“The new era has begun! The era of the downfall of Capitalism — its internal disintegration. The epoch of the proletarian communist revolution. In some countries, victorious proletarian revolution; increasing revolutionary ferment in other lands; uprisings in the colonies; utter incapacity of the ruling classes to control the fate of peoples any longer; that is the picture of present world conditions. faces danger of complete destruction. There is only one power which can save it — the power of the proletariat. The old capitalistic ‘Order’ can exist no longer. This ultimate result of the capitalistic mode of production is chaos — a chaos to be overcome only by the great producing class, the proletariat. It is the proletariat which must establish real order, the order of communism. It must end the domination of capital, make war impossible, wipe out state boundaries, transform the whole world into one co-operative commonwealth, and bring about real human brotherhood and freedom.

“World Capitalism prepares itself for the final battle. Under cover the ‘League of Nations’ and a deluge of pacifist phrasemongering, a desperate effort is being made to pull together the tumbling capitalist system and to direct its forces

against the constantly growing proletarian revolt. This monstrous new conspiracy of the capitalist class must be met by the proletariat by seizure of the political power of the State, turning this power against its class enemies, and using it as a lever to set in motion the economic revolution. The final victory of the proletariat of the world means the beginning of the real history of free mankind.

“THE CAPTURE OF POLITICAL POWER.

“Seizure of political power by the proletariat means destruction of the political power of the bourgeoisie. The organized power of the bourgeoisie is in the civil State, with its capitalistic army under control of bourgeois-junker officers, its police and gendarmes, jailers and judges, its priests, government officials, etc. Conquest of the political power means not merely a change in the personnel of ministries but annihilation of the enemy's apparatus of government; disarmament of the bourgeoisie, of the counter-revolutionary officers, of the White Guard; arming of the proletariat, the revolutionary soldiers, the Red Guard of Workingmen; displacement of all bourgeois judges and organization of proletarian courts; elimination of control by reactionary government officials and substitution of new organs of management of the proletariat. Victory of the proletariat consists in shattering the enemy's organization and organizing the proletarian power in the destruction of the bourgeois and upbuilding of the proletarian State apparatus. Not until the proletariat has achieved this victory and broken the resistance of the bourgeoisie can the former enemies of the new order be made useful, by bringing them under control of the communistic structure and gradually bringing them into accord with its work.

“DEMOCRACY AND DICTATORSHIP.

“The proletarian State, like every State, is an organ of suppression, but it arrays itself against the enemies of the working class. It aims to break the opposition of the despoilers of labor, who are using every means in a desperate effort to stifle the revolution in blood, and to make impossible further opposition.. The dictatorship of the proletariat, which gives it the favored position in the community, is only a provisional institution. As the opposition of the bourgeoisie

is broken, as it is expropriated and gradually absorbed into the working groups, the proletarian dictatorship disappears, until finally the State dies and there is no more class distinction.

“Democracy, so-called, that is, bourgeois democracy, is nothing more nor less than veiled dictatorship by the bourgeoisie. The much vaunted ‘popular will’ exists as little as the undivided people. In reality, there are the classes, with antagonistic, irreconcilable purposes. However, since the bourgeoisie is only a small minority, it needs this fiction of the ‘popular will’ as a flourish of fine-sounding words to reinforce its rule over the working classes and to impose its own class will upon the people. The proletariat, on the contrary, as the overwhelming majority of the people, openly exercise its class power by means of its mass organizations and through its Councils, in order to wipe out the privileges of the bourgeoisie and to secure the transition, rather the transformation, into a classless communistic commonwealth.

“The main emphasis of bourgeois democracy is on formal declarations of rights and liberties which are actually unattainable by the proletariat, because of want of the material means for their enjoyment; while the bourgeoisie uses its material advantages, through its press and organizations, to deceive and betray the people. On the other hand, the Council type of government makes it possible for the proletariat to realize its rights and liberties. The Council power gives to the people palaces, houses, printing offices, paper supply, etc., for their press, their societies and assemblies. And in this way alone is actual proletarian democracy made possible.

“Bourgeois democracy, with its parliamentary system, uses words to induce belief in popular participation in government. Actually the masses and their organizations are held far out of reach of the real power and the real State administration. In the Council system the mass organizations rule and through them the mass itself, inasmuch as the Councils draw constantly increasing numbers of workers into the State administration; and only by this process will the entire working population gradually become part of the government. The Council system also builds itself directly on

the mass organizations of the proletariat, on the councils, themselves, the revolutionary trade unions, the co-operatives, etc. Bourgeois democracy and its parliamentary system sharpen the separation of the masses from the State by division of the government into legislative and executive powers, and through parliamentary mandates beyond popular recall. The Council system, by contrast, unites the masses with the organism of government by right of recall, amalgamation of legislative and executive powers, and by use of working roads. Above all this union is fostered by the fact that in the Council system elections are based not on arbitrary territorial district, but on units of production.

"In this way the Council system brings about true proletarian democracy, democracy by and for the proletarians against the bourgeoisie. The industrial proletariat is favored in this system because it is the most aggressive, best organized and politically ripest class, under whose leadership the half-proletarians and small farmers will be gradually elevated. These temporary privileges of the industrial proletariat must be utilized to draw the small farmers away from the control of the big landowners and bourgeoisie and to organize and train them as helpers in the building of the communistic structure.

"EXPROPRIATION OF THE BOURGEOISIE AND SOCIALIZATION OF PRODUCT

"The breakdown of the capitalistic order and the disruption of capitalistic industrial discipline makes impossible the reorganization of production on the capitalistic basis. Wage wars of the workingmen — even when successful — do not bring the anticipated betterment of conditions of living; the workers can only become emancipated when the production is no longer controlled by the bourgeoisie but by the proletariat. In order to raise the standards of productivity, in order to crush the opposition on the part of the bourgeoisie (which only prolongs the death struggle of the old regime and thereby invites danger of total ruin), the Proletarian Dictatorship must carry out the exploitation of the greater bourgeoisie and the junkerdom and convert the means of production and distribution into the common property of the proletarian State.

"Communism is now being born out of the ruins of Capitalism — there is no other salvation for humanity. The opportunists who are making utopian demands for the reconstruction of the economic system of capitalism, so as to postpone socialization, only delay the process of disintegration and increase the danger of total demolition. The communist revolution, on the other hand, is the best, the only means, by which the most important social power of production — the proletariat — can be saved, and with it society itself.

"The Dictatorship of the Proletariat does not in any way call for partition of the means of production and exchange; rather, on the contrary, its aim is further to centralize the forces of production and to subject all of production to a symmetrical plan. As the first steps toward socialization of the entire economic system may be mentioned: the socializing of the great banks which now control production, the taking over by the state power of the proletariat of all government-controlled economic utilities; the transferring of all communal enterprises; the socializing of the syndicated and trustified units of production, as well as all other branches of production in which the degree of concentration and centralization of capital makes this technically practicable; the socializing of agricultural estates and their conversion into cooperative establishments.

"As far as the smaller enterprises are concerned, the proletariat must gradually unite them, according to the degree of their importance. It must be particularly emphasized that small properties will in no way be expropriated and that property owners who are not exploiters of labor will not be forcibly dispossessed. This element will gradually be drawn into the socialistic organization through the force of example, through practical demonstration of the superiority of the new order of things, and the regulation by which the small farmers and the petty bourgeoisie of the cities will be freed from economic bondage to usurious capital and landlordism, and from tax burdens (especially by annulment of the national debts), etc.

"The task of the Proletarian Dictatorship in the economic field can only be fulfilled to the extent that the proletariat is enabled to create centralized organs of management and to institute worker's control. To this end it must make use of

its mass organizations which are in closest relation to the process of production. In the field of distribution the Proletarian Dictatorship must reestablish commerce by an accurate distribution of products; to which end the following methods are to be considered: the socialization of wholesale establishments, the taking over of all bourgeois-State and municipal apparatus of distribution, control of the great cooperative societies, which organizations will still have an important role in the production-epoch; the gradual centralization of all these organs; and their conversion into a systematic unity for the rational distribution of products.

"As in the field of production so also in the field of distribution all qualified technicians and specialists are to be made use of, provided their political resistance is broken and they are still capable of adapting themselves, not to the service of capital, but to the new system of production. Far from oppressing them the proletariat will make it possible for the first time for them to develop intensive creative work. The Proletarian Dictatorship, with their cooperation, will retrieve the separation of physical and mental work which Capitalism has developed and thus will Science and Labor be united. Besides expropriating the factories, mines, estates, etc., the proletariat must also abolish the exploitation of the people by capitalistic landlords, transfer the large mansions to the local workers' councils, and move the working people into the bourgeois dwellings.

"During the great transition period the power of the Councils must constantly build up the entire administrative organization into a more centralized structure, but, on the other hand, constantly draws over increasing elements of the working people into the immediate control of government.

"THE WAY TO VICTORY.

"The revolutionary era compels the proletariat to make use of the means of battle which will concentrate its entire energies, namely, mass action, with its logical resultant, direct conflict with the governmental machinery in open combat. All other methods, such as revolutionary use of bourgeois parliamentarism, will be of only secondary significance.

“The indispensable condition for successful struggle is separation not only from the direct servitors of capitalism and enemies of the communist revolution, in which role the Social Democrats of the Right appear, but also from the party of the Centre (Kautskians), who desert the proletariat at the critical moment in order to come to terms with its open antagonists. On the other hand, there are essential elements of the proletariat, heretofore not within the Socialist party, who stand now completely and absolutely on the platform of the dictatorship of the proletariat in the form of Council rule, for example, the corresponding elements among the Syndicalists.

“The growth of the revolutionary movement in all lands, the dangers of suppression of this revolution through the coalition of capitalistic States, the attempts of the Socialist betrayers to unite with one another (the formation of the Yellow ‘International’ at Berne), and to give their services to the Wilsonian League; finally, the absolute necessity for co-ordination of proletarian actions — all these demand the formation of a real revolutionary and real proletarian Communist International. This International, which subordinates the so-called national interests to the interests of the international revolution, will personify the mutual help of the proletariat of the different countries, for without economic and other mutual helpfulness the proletariat will not be able to organize the new society. On the other hand, in contrast with the Yellow International of the social-patriots the Proletarian Communist International will support the plundered colonial peoples in their fight against Imperialism in order to hasten the final collapse of the imperialistic world system.

“The capitalistic criminals asserted at the beginning of the world war that it was only in defense of the common Fatherland. But soon German Imperialism revealed its real brigand character by its bloody deeds in Russia, in the Ukraine and in Finland. Now the Entente states unmask themselves as world despoilers and murderers of the proletariat. Together with the German bourgeoisie and social-patriots, with the hypocritical phrases about peace on their lips, they are trying to throttle the revolution of the European proletariat by means of their war machinery and stupid barbaric colonial soldiery. Indescribable is the White Terror

of the bourgeois cannibals. Incalculable are the sacrifices of the working class. Their best — Liebknecht, Rosa, Luxemburg — they have lost. Against this the proletariat must defend itself, defend at any price. The Communist International calls the entire world proletariat to this final struggle.

“DOWN WITH THE IMPERIAL CONSPIRACY OF CAPITAL!”

“LONG LIVE THE INTERNATIONAL REPUBLIC OF THE PROLETARIAN COUNCILS!”

Moscow, *March 2-6, 1919.*

Mr. Stedman.— Mr. Chairman, I want to move to strike this out for the reason that up to the present time there is no evidence showing that the document was ever read or ever endorsed before or by the National Convention of the Socialist party; and no evidence that any of the Assemblymen who are on hearing before you has expressed any opinion upon it, or that they had any knowledge of its contents. I am not, of course, questioning the accuracy of the prophecy of the document issued by any parliamentary body or association; whether true or not the future may tell that, but that the party endorsed it I would expect proof of before it is admitted.

The Chairman.— Well, I will admit it, and let them furnish proof if they have got it.

Mr. Stedman.— Then, if they have not the proof I will renew my motion to strike out.

The Chairman.— I understand they will follow that with proof.

Mr. Stanchfield.— We now offer in evidence, if the Committee please, Exhibit 6 for Identification, which is a copy of the New York Call of Friday, September 5, 1919, and read in evidence therefrom the party manifesto, adopted unanimously by the delegates attending the emergency convention of the Socialist party of America at Chicago on September 4, 1919.

It is headed “Party Manifesto demands amnesty and End of Blockade against Russia”——

Mr. Stedman.— Will you excuse me just one minute.

Mr. Stanchfield.— Yes, certainly, Mr. Stedman.

Mr. Stedman.— I may say I have been informed by Mr. Block, that the copy that was published in *The Call*, as a news report, is not a correct copy of the Manifesto that was adopted, and if that is so, perhaps we could eliminate the difficulty of putting in time by comparison.

The Chairman.— They have the Manifesto there.

Mr. Stanchfield.— What I am about to read and produce is the one that you read (addressing Mr. Block).

Mr. Block.— No, that is not entirely correct. There are several changes in there before it was adopted.

Mr. Stedman.— I understand that was a news report, and the one issue I have is in pamphlet form and is correct and as adopted by the convention.

Mr. Block.— I believe you have offered one in evidence already. It is in leaflet form.

Mr. Stedman.— Maybe you recognize it; do you recall?

Mr. Stanchfield.— I do not know how closely they are in harmony.

Mr. Stedman.— Then I will follow that as you read it.

Mr. Stanchfield.— The exhibit I offer is published in the organ of the organization.

Mr. Stanchfield (reading):

“ By the Staff Correspondent ”——

Mr. Stedman.— I object to any comments of the report.

Mr. Stanchfield.— I was just identifying it.

(Reading):

“ The capitalist class is now making its last stand in its history. It was intrusted with the government of the world. It is responsible for the prevailing chaos. The events of recent years have conclusively demonstrated that capitalism is bankrupt, and has become a dangerous ”——

Mr. Stedman.— “ It has to become a dangerous competitor.”

Mr. Stanchfield.— I suggest, Mr. Stedman, as to these mere verbal differences, if you want to read it later, I have no objection to your doing it.

Mr. Stedman.— We submit we will produce the original copy which ought to take precedence over any newspaper report.

Mr. Stanchfield.— If there is any substantial difference, Mr. Block, when I am finished I am quite willing to read the differences in evidence.

Mr. Block — No, I think you ought to read the correct copy first.

Mr. Stanchfield.— I have here the official organ's copy as testified by Mr. Gerber, and what appears to be the verbatim report of this Manifesto read by Mr. Block himself at Chicago.

Mr. Stedman.— Obviously, the document which will be produced by the Party would be its official Manifesto, and we are not objecting to that, but in the report in the newspapers there would be inaccuracies which may amount to considerable. If you have the original that is the one that should be produced.

Mr. Stanchfield.— This is the only one I have, Mr. Stedman.

Mr. Stedman.— May I offer you the one I have here?

Mr. Stanchfield.— I say I will take it up later.

The Chairman.— Mr. Stanchfield can read them into the record and you can make the changes as you go along and then put the corrections in.

Mr. Stedman.— I will do that as he reads it.

Mr. Stanchfield.— The technical situation is that I am offering here a report in the regular organ of the Socialist Party. Mr. Stedman produces a document there; as to its authenticity or veracity we, of course, know nothing.

The Chairman.— You read yours in and then Mr. Stedman can put his in and that will give us both of them.

Mr. Stanchfield.— (Reading) :

“ The following manifesto was unanimously adopted to-day by the delegates attending the emergency convention of the Socialist Party of America:

"The capitalist class is now making its last stand in its history. It was intrusted with the government of the world. It is responsible for the prevailing chaos. The events of recent years have conclusively demonstrated that capitalism is bankrupt, it has become a dangerous impediment to progress and human welfare. The working class alone has the power to redeem and to save the world.

"In every modern country, whether monarchial or republican in form, the Capitalist class was in control, monopolized the national wealth and directed the industrial processes.

"Its rule has been one of oppression, disorder and civil and international strife.

"The capitalist interests of every leading nation fully exploited the resources of their country and reduced their peoples to wretchedness and then set out to conquer the markets of the world for the sale of their surplus commodities, for the investment of their surplus capital and for the acquisition of additional sources of raw material and national wealth.

"STRUGGLE FOR MARKET GROWS DESPERATE.

"A new era dawned upon the world, the mad era of capitalist imperialism. The weak people of the globe were subjugated by the strong nations. Asia, Africa, Central and South America with their hundreds of millions of peaceful inhabitants were forcibly parcelled out into colonies, so-called — protectorates and spheres of influence for the capitalist conquerers.

"The struggle for foreign markets became even more desperate and acute. A violent clash among competing imperialistic nations became even more imminent and threatening.

"The great rival powers of the world were uneasily and distrustfully watching each other and arming against each other. Millions of workers were taken from productive labor and trained in the savage art of killing their fellowmen. Civilizing and life-sustaining activities were subordinated to the mad race for military and naval supremacy. The nations of Europe groaned under the oppressive burdens of great armaments and became frantic with fear of mutual attacks. Capitalism in its full development caused human society to revert to the primitive conditions of savage tribal warfare.

"STATESMEN AT VERSAILLES BLINDED BY GREED.

"Then came the inevitable collapse. The world was precipitated into the most savage and inhuman slaughter in history.

"Millions of young men were killed. Millions more were maimed and crippled. Countries were devastated and depopulated. Industries were disorganized. Famine, disease and misery ravaged the people of many lands.

"Finally, the ghastly combat ended. The Central Powers, vanquished and exhausted, laid down their arms. Imperialistic statesmen of victorious allies dictated a so-called peace. It is a peace of hatred and violence, a peace of vengeance and strangulation. The reactionary statesmen at the Versailles Peace Conference were blinded by greed, passion and fear. They refused to heed the terrible lesson of the Great War. They have left open the old international sores and have inflicted innumerable and grievous new wounds upon a distracted world.

"To strengthen their precarious rule of violence and reaction, the triumphant representatives of allied capitalism have created an executive committee of their governments, which they have the insolence to parade under the counterfeited label of a League of Nations.

"WEAKER NATIONS WILL BE BULLIED.

"The true aim of this alliance of capitalist powers is to safeguard their plunder, to bully and dominate the weak nations, to crush proletarian governments and to thwart everywhere the movements of the working class.

"It was the world-wide struggle between the working class and the capitalist class which dictated the decisions of the Versailles Conference. This is clearly shown on the one hand by the desperate attempts to crush Soviet Russia and by the destruction of Soviet Hungary, on the other hand, by its recognition of the unsocialistic coalition government of Germany.

"The so-called League of Nations is the capitalistic black international against the rise of the working class. It is the conscious alliance of the capitalists of all nations against the workers of all nations.

"WORKERS MUST REBUILD SOCIAL ORDER.

"It now becomes more than ever the immediate task of international Socialism to accelerate and organize the inevitable transfer of political and industrial power from the capitalist class to the workers. The workers must recognize the economic structure of human society by eliminating the institution of the private ownership of natural wealth and of the machinery of industry, the essence of war breeding system of international commercial rivalry. The workers of the world must reorganize the economic structure of human society by making the natural wealth and the machinery of industry the collective property of all.

"The workers of the world are already ushering in the new order of true civilization.

"The workers of Germany and Austria are now the dominant political powers. While the leaders of the workers of these two countries have as yet proved too timid to use their political power for the abolition of economic exploitation, the masses are showing an ever-increasing determination to end the impossible government copartnership between capital and labor and to establish in its place a genuine Socialist industrial democracy.

"The workers of Great Britain, France and Italy, the workers of the newly created nations, and the workers of the countries which remained neutral during the war, are all in a state of unprecedented unrest. In different ways, and by different methods, either blindly impelled by the inexorable conditions which confront them, or clearly recognizing their revolutionary aims, they are abandoning their temporizing programs of pre-war labor reform. They are determined to control the industries, which means control of the governments.

"In the United States capitalism has emerged from the war more reactionary and aggressive, more insolent and oppressive, than it has ever been.

"Having entered the war 'to make the world safe for democracy,' our government has enthusiastically allied itself with the most reactionary imperialism of Europe and Asia. In the preparation of the infamous Peace Treaty, acts of violence and of plunder were sanctioned by our peace delegates. Acts of infamy were masked by our eloquent President in idealistic and sanctimonious phrases.

"And, while thus serving as an accomplice of black reaction abroad, our administration and the capitalist interests behind it were busily engaged in the ruthless work of suppressing civil rights and liberties at home.

"PATRIOTISM SCREENS CAPITALISTS.

"Under the pretext of wartime necessity, Congress and State Legislatures enacted drastic laws, which effectively nullified the right of political criticism and opposition, freedom of speech, of the press and of assemblage. Although these laws are clearly unconstitutional, our courts skilfully avoided declaring them invalid. The Socialist Party, which during the war was the only party of peace and progress and the sole political defender of civil rights and labor's interests in the United States, was brutally outlawed. Its press was crippled, many of its meetings were dispersed, a great many of its defenders were persecuted and jailed.

"Under the cloak of false patriotism and behind a barrage of terroristic jingo sentiment, deliberately incited by them, the capitalists of America launched an orgy of profiteering which all but ruined the nation. The administration permitted a relatively small number of men to make profits amounting to billions of dollars, while the price of the necessities of life rose to overwhelming heights.

"While the war created thousands of new millionaires, the short sighted workers of the United States were appeased by increases of their nominal wages, which left them behind their pre-war standards of life. While the vain, conservative labor leaders were bribed by meaningless posts of honor, the courageous spokesmen for the more radical labor groups have been put behind prison bars.

"SPIRIT OF REVOLT GROWS STEADILY.

"It is not surprising, therefore, that the end of the war has found the organized workers of America far behind their brothers in Europe, who are everywhere strengthening their forces to throw off the chains of industrial and political subjugation.

"But even in the United States the symptoms of a rebellious spirit in the ranks of the working masses are rapidly multiplying. Widespread and extensive strikes for better labor

conditions, the demand of the 2,000,000 railway workers to control their industry, sporadic formation of labor parties apparently, though not fundamentally, in opposition to the political parties of the possessing class, are promising indications of a definite tendency on the part of American labor to break away from its reactionary and futile leadership and to join in the great emancipating movement of the more advanced revolutionary workers of the world.

PRO-WAR SOCIALISTS REPUDIATED.

"Recognizing this crucial situation at home and abroad, the Socialist Party of the United States at its first National Convention after the war, squarely takes its position with the uncompromising section of the International Socialist movement. We unreservedly reject the policy of those Socialists who support their belligerent capitalist governments on the plea of 'National Defense,' and who entered into demoralizing compacts for so-called civil peace with the exploiters of labor during the war and continued a political alliance with them after the war.

"We, the organized Socialists of America declare our solidarity with the revolutionary workers of Russia"—

Mr. Stedman.—Ours has "pledge our support."

Mr. Stanchfield — (continuing):

"In the support of the government of their Soviets, with the radical Socialists of Germany, Austria and Hungary in their efforts to establish working class rule in their countries, and with those Socialist organizations in England, France, Italy and other countries, who, during the war as after the war, have remained true to the principles of uncompromising international Socialism.

"The people of Russia, like the American Colonists in 1776, were driven by their rulers to the use of violent methods to obtain and maintain their freedom. The Socialist Party calls upon the workers of the United States to do all in their power to restore and maintain our civil rights to the end that the transition from capitalism to Socialism may be effected without resort to the drastic measures made necessary by autocratic despotism.

“RUSSIAN BLOCKADE MUST BE LIFTED.

“We are utterly opposed to the so-called League of Nations. Against this international alliance of capitalistic governments, we hold out to the world the ideal of a federation of free and equal Socialist nations.

“A genuine and lasting peace can be built only upon the basis of reconciliation among the peoples of the warring nations and their mutual cooperation in the tasks of reconstructing the shattered world.

“We emphatically protest against all military material or moral support which our government is extending to Czarist counter-revolutionists in Russia, and demand the immediate lifting of the indefensible and inhuman blockade of Soviet Russia.

“We demand the unconditional and immediate liberation of all class war prisoners convicted under the infamous espionage law and other repressive legislation.”

Mr. Stedman.— This copy reads:

“We emphatically protest against all military, material or moral support, which our government is extending to Czarist counter-revolutionists in Russia and the reactionary forces in Hungary and we demand the immediate lifting of the indefensible and inhuman blockade of Soviet Russia.”

Mr. Stanchfield.— Well, the people of Hungary are not in this. I imagine that was edited later probably. (Continuing reading):

“We demand the full restoration to the American people of their constitutional rights and liberties.

“WORKERS MUST TAKE INDUSTRIES.

“The great purpose of the Socialist Party is to wrest the industries and the control of the Government of the United States from the capitalists and their retainers. It is our purpose to place industry and government in the control of the workers with hand and brain, to be administered for the benefit of the whole community.

“To insure the triumph of Socialism in the United States the bulk of the American workers must be strongly organized politically as Socialists, in constant, clearcut and aggressive opposition to all parties of the possessing class. They must

be strongly organized in the economic field on broad industrial lines, as one powerful and harmonious class organization, cooperating with the Socialist Party, and ready in cases of emergency to reinforce the political demands of the working class by industrial action.

"To win the American workers from their ineffective and demoralizing leadership, to educate them to an enlightened understanding of their own class interests, and to train and assist them to organize politically and industrially on class lines, in order to effect their emancipation, that is the supreme task confronting the Socialist Party of America.

"To this great task, without deviation or compromise, we pledge all our emergencies and resources. For its accomplishments we call for the support and cooperation of the workers of America and of all other persons desirous of ending the insane rule of capitalism before it has the opportunity to precipitate humanity into another cataclysm of blood and ruin.

"Long live the International Socialist Revolution, the only hope of the suffering world!"

Mr. Stedman.— In the last paragraph attention has been called to one part:

"We, the organized Socialists of America, pledge our support to the Revolutionary workers of Russia in the support of their Soviet Government."

I think in the part you read the word "solidarity."

As to this, I want to renew my objection to strike out on the grounds of the others and further, that it doesn't have any tendency to support any of the charges which would amount to the disqualification urged and set forth in the charges presented by the Committee.

The Chairman.— Well, they have it in there for what it is worth. The objection is overruled.

With the permission of the counsel, I think we will take a recess. Wait just a moment. Mr. Sergeant-at-Arms, is there any way you could open the windows for a few moments?

We will take a recess until quarter of four o'clock.

AFTER RECESS, 3.45 P. M.

Mr. Stedman: Mr. Chairman, the method that the counsel have adopted of presenting their case, of first presenting a manifesto issued by the Soviets of Russia, and then a manifesto by the Socialist party, nothing being in common between them excepting the term "manifesto," and then referring to speeches, leaves me in a position where I ought to state that it seems to me they ought to follow, if they have it, with proof showing the adoption of the theory of the Communist manifesto. I mention that also with this statement: That at the time the Convention adopted the manifesto last read there was another convention in the city of Chicago, of the Communists, between whom there was a clearly marked distinction. In no sense did the socialist party or its members adopt the Moscow manifesto, and I apprehend that if counsel goes to the proof it will very quickly disclose what I state, and I think before it gets out that that is a document of our party, the mode of proof ought to be such as to immediately connect it, if they have any evidence connecting it, and I say, as one present personally —

Mr. Sutherland.—We object to the statement of counsel here.

Mr. Stedman.—I will withdraw that as a statement of fact. I realize that it is only proper for me to make a statement of that kind in the opening of my case, but I am saying that because I feel that if it is to be material in the consideration of the committee, it should be connected, and we should not be shifted from one angle to another, here and there. I think that ought to be connected if you have the evidence.

Mr. Sutherland.—Your Honor, the Moscow proclamation was circulated by the Literary department of the Socialist party of America, a bureau created under the socialist constitution for the circulation of their own propaganda.

Mr. Stedman.—My answer to that is twofold: First, I think there is a great deal of doubt as to whether it was; second, if it was circulated, it might be circulated with a thousand different leaflets and pamphlets, but the party does not adopt the theories of the different writers whose books might be sold by them.

The Chairman.—That is true; I understand that. Books have been sold of all kinds. I take it?

Mr. Stedman.—Yes.

WILLARD B. BOTTOME, a witness called, and sworn, testified as follows:

Direct Examination by Mr. Stanchfield.

Q. Where do you reside? A. Yonkers, New York, 17 Bailey avenue.

Q. And your occupation is what? A. I am one of the official stenographers in the New York Supreme Court.

Q. On the evening of Friday, November 7, 1919, did you attend a meeting called to celebrate the second anniversary of the Russian Soviet government, held at Brown's Labor Lyceum, Sackett street, Brooklyn, N. Y.? A. I did.

Q. And did you take there certain stenographic notes of speeches that were made? A. I did.

Q. Who was the chairman of the meeting? A. Mr. Charles Solomon.

Q. One of the five men involved in this investigation? A. Yes.

Q. And was Mr. Louis Waldman one of the five men involved in the proceeding, one of the speakers at that meeting? A. He was.

Q. And did Mr. Solomon also speak at that meeting? A. Yes.

Q. And Mr. Zilboorg? A. Yes.

Q. And Mr. Shiliocoff? A. Yes.

Q. And Mr. James O'Neill? A. Yes.

Q. And Mr. Block? A. Yes.

Q. Now, you experienced, did you not, some difficulty in getting into the meeting? A. I did.

Q. But from the time you got in and began to take notes, are your notes a correct statement of what was said and what occurred at the time? A. They are.

Mr. Cuvillier.—When was that?

Mr. Stedman.—That was the 7th of November, 1919.

By Mr. Stanchfield.

Q. I hand you this typewritten report of the meeting to celebrate the second anniversary of the Russian Soviet government, held at Brown's Labor Lyceum, Sackett street, Brooklyn, and ask you if that is a correct transcript of your stenographic notes?

Mr. Stedman.—Do you refer to the speech of any individual, or is this the entire meeting?

Mr. Stanchfield.—It is the record, as I understand the witness, of all the speeches, with the exception of the forepart of Mr. Solomon's speech, which he did not get—

The Witness.— The forepart of Mr. Waldman's speech.

Mr. Stanchfield.— The forepart of Mr. Waldman's speech, which he did not get because he did not get into the hall in time; but the balance of the speeches, and Mr. Waldman's speech, are correct; is that right?

The Witness.— Yes.

Mr. Stanchfield.— I ask to have that marked for identification.

(Volume referred to marked for identification Exhibit No. 30.)

Mr. Stanchfield.— Now, from Exhibit No. 30, I purpose to read the speech of Mr. Louis Waldman, one of the five men involved in this proceeding.

Mr. Stanchfield (reading):

"Mr. Louis Waldman: So long as the present regime sets up a fortress in Russia and says that no food, no clothing, no machinery shall be landed on Russian soil, hundreds of thousands of women and children in Russia are literally starving and dying, because there is no food, because the American capitalistic regime and the British government and the French imperialism are refusing to permit food to enter Russia.

"America to-day is one of the murderers of hundreds of thousands of women and children in Russia, and we are here to protest from the very bottom of our hearts. (Great applause.)

"Not only is America starving, in a cowardly way, the women and children of Russia, the American sailor boys are still on the Siberian front, fighting a country against which this nation has never declared war.

"What crimes has Russia committed, what harm has Russia done to the people of the United States, that our boys, American boys, should to-day be on Russian soil to shed the blood of Russian workmen? Is it a crime when they have decided to abolish Russian exploitation and set up a working class Republic?

"The meeting, therefore, has a double purpose; not merely do we celebrate the birth of the Workers' Republic in Russia, but these hundreds and thousands of meetings throughout the land will serve as a challenge and a warning to capitalism in the United States, first, that they must stop

these crimes against Russia; and, second, draw the soldiers and the sailors from the Russian areas. (Applause.)

"When we speak of America, after all there is no other America to-day than capitalist America, official America. Your voice is not heard in Russia. The only way you can make your voice heard in Russia is to make your voice effective in America. (Applause.)

"When you are Morgans, then your voices will be heard in Russia. So far, Wall Street and Wall Street policies and Wall Street interests will dictate the international attitude of Woodrow Wilson and the rest of the Cabinet. (Hisses.)

"Russia established a revolution—I will say it in the other way: Russia is revolutionizing to-day and we are celebrating the birth of a new State, something entirely new, something that history has not seen yet.

"In the past thousand years the world has gone through three stages. The first stage was organization based on the Divine right of kings.

"The king had the right to rule the people by Divine Providence.

"The second stage, and that, my friend Solomon spoke about as the French and American Revolution, a state based upon the Divine right of private property; and to-day, in Russia, they have founded a new state which is a state based upon the Divine right of humanity. (Great applause.)

The Soviet form of government is a new form of government. Heretofore, the function of government was recognized as being a jailer, a policeman, a tax collector, a military conscript, a war declarant; but industry and commerce, when it came to wages and hours, the government assumed a policy of indifference, to let things alone; but a new state has been founded, and it says to the world, that the function of the state is not to be the mere policeman, to be the jailer, and the judge and the tax collector and the conscript, but that the function of the state is to organize the industries, the wealth, the resources, human and material, for the purpose of establishing things as they should be. (Applause.)

"This new state is being fought and fought hard by imperialism and capitalism the world over, and I do not blame them, because if Socialism can be shown to succeed in the world, what chance has Wall street to survive, what chance? None.

"Albert Rhys Williams tells an interesting story. He met a banker, and the banker said to him that he was in Russia, and he went on with his vituperations against the Bolsheviks, and he said, 'What are you excited about? They are not so bad.' He said, 'They can't succeed.' Albert Rhys Williams said, 'Why don't you let them alone? If they can't succeed, they are a failure.' 'But,' he said, 'what will we do if they do succeed?' (Laughter.) So they are really afraid they will succeed.

"Now, you have noticed in the past two or three years the most absurd, the most stupid, the most contemptible, malicious slander that could be put in print, or that could be spoken by the lips of men, and that was spoken and printed against the Russian people and the Russian workers. What was it? Now we know from history, it is nothing new to pick up a page to-day about the French Revolution, written by historians ten, fifteen or twenty years ago, and it speaks about the French Revolution with reverence, with respect, with awe, with admiration; but during the revolution in France you know Edmund Burke, a famous Englishman, made a speech on the floor of Parliament that made him an authority on international affairs.

"You high school boys and girls will remember you were asked questions on an examination paper about Edmund Burke. Edmund Burke is known in all histories. This gentleman was paid \$10,000 a year in his time to fight the French Revolution against the Germans. Who paid him? The feudal lords of Great Britain at ?

Republic of the type that they were establishing, then what would prevent England from following suit?

"We know that he attacked the revolutionists — I admit that my campaign talking affects my throat, and what is more, I never wear a collar in a campaign; I always wear a soft shirt, and, so as to make it an issue, they say, "Waldman wears a soft shirt in a campaign and puts on a collar afterwards" (laughter).

"More than one politician will start out and say, "Well, that is just the type; he wants to prove he is a workingman and he puts the soft collar and soft shirt on, but after election, when he has got to go into the business section, he puts on a collar and dresses himself."

"The fact of the matter is, it is more difficult to speak with a collar on. It is like a horse with a muzzle on when he wants to eat.

"What were the three principal attacks made against the Bolsheviks? One of them, by the way, even was carried on in the campaign. There was a big circular, 'What the socialists stand for on morality and religion.' On the case of morality, all they did was to quote an alleged decree that in Russia, where socialism exists, they nationalized all women. All they did was to take all the girls above the age of eighteen, register them in a great armory, and then every man who wanted a girl could come in and pick out one and do what he pleased. That was the state of affairs. That was the decree that they quoted, and they said that the socialists believed in that. That was distributed in tens of thousands.

"Now, do you believe anything like that would happen? Would an intelligent person, such as I believe you are, even if there were no arguments against it, believe that such a thing would happen? I believe that Tammany Hall could produce a thing like that. Why? Because they did produce it. They did produce it, on 42nd street, on 14th street, the houses of vice and prostitution, which numbered to the point of 70,000 in capitalistic America, which is a product not of Soviet Russia but of capitalistic America (great applause).

"I understand that they can produce it, but would you believe that Soviet Russia produced it?

"That decree, of course, was a lie; everybody proved it was a lie.

"I have seen a decree on marriage issued by Soviet Russia, and all it said was this: That any boy above the age of 18, and any girl above the age of 16, can go to a clerk, a marriage clerk, take out a license and get married. That is all it says.

"Now, how do they marry in New York, in America? I never did it, but (laughter) those of you who have married, —you will correct me if I am wrong— a boy and a girl go over to the license clerk, they say to love each other, and sometimes they lie (laughter): and they ask for a license and he gets a license to get married, and they get married. You don't have to have a church marriage here any more than you have to have it in Russia. The law on marriage in Russia is exactly the same as that in the United States, as a matter of fact; but then, in the case of divorce, and that is what I

am going to spend a couple of minutes on towards the conclusion of my speech — here is where the church and the old foggy Senate committee had a great deal to say against Soviet Russia.

“All a man has to do is to say to his wife, ‘I don’t love you any more; let’s go apart.’ They say this is the thing that we call promiscuity, because you can make as many mistakes as you want to. But if you can go apart so easy, what is there to being married?

“Well, suppose I tell you what the divorce law in the State of New York is, and we will see. How would you like it right here in New York to make a little comparison with civil America and uncivilized Russia? Several months ago I was working in a law office, and a young woman about the age of 25, a beautiful, strong girl, tells us a story that when she was 18 years old she got married; she fell in love and she loved desperately, as they all do when they are 18, but afterwards they begin to love sensibly (laughter); she loved so much that while her father and mother were against the marriage, she eloped with the man and got married just the same. She lived with him just four weeks, when she found out he was a sexual pervert, a beast, unfit to live with any decent woman. She left him in disgust. You can just about imagine how she would feel under those circumstances.

“This was a young girl of 18, with ideal love, dream-love, and she met this man, she offended her parents, she gave up her happy home, she gave up everything, and she finds this. She is so disgusted that she leaves the city and goes away to Washington. She will never have anything more to do with men. She stayed there for seven years.

“She came back to New York to secure a divorce. She could not go back to live with her family. It became unnatural. She wants to secure a divorce. She comes to the office for advice. What shall we do with that woman? What is the law of this State? The law of this State is that this woman must go back and live with her husband, though her husband may be a beast unfit to be in the same block, to live along in the same house with that man is intolerable. The law says, ‘You married him and you must stay with him.’

“There is only one thing left for that woman to do. What is it? Take a man, go to a hotel, hire a room, hire a

detective, come into the room, be caught in a compromising position, and then come into court and unveil a dirty and contemptible story, and then only let the majesty of the law of the State of New York grant her a divorce.

"Russian people read 'Redemption' by Tolstoi, too much to stand for such immoral and unethical laws, and so their divorce law is a little bit more sensible, more moral and more ethical.

"Then there is the third proposition, and that is the last point I am going to state about the Soviet Russia. The third point is that Russia is killing its bourgeoisie. I was looking for substantiation of this talk, and I found it. I found it in a decree called, 'The Declaration of Rights of Labor and Humanity in Russia.'

"In that decree there was a clause which must have been a copy of one of the laws passed in the State of New York a couple of years ago when I was in the Legislature, and this is what it was: They declared an industry in Russia non-essential. You remember the law they passed here, as to certain industries in the State of New York as being non-essential. Do you remember it? They also passed a law there declaring certain industries non-essential. Among those industries was clipping dividends, making profits, getting bank accounts, owning mines, owning banks, owning factories, robbing people, exploiting workers, and all that was declared non-essential in Russia (great applause). And anybody who engaged in those pursuits was going to starve.

"They said to a man, 'You either go to work or starve.'

"Now, you may say it is a very bad policy, but you remember when Solomon would go up on the street corner or Shiplocoff would go up on the street corner and ask, 'What would you do under Socialism with the lazy and indifferent and those who don't want to work?' What is the answer? Our answer is, 'We will give them a chance to work, and if they refuse to work they will starve under Socialism.'

"And to-day we are living up to our promise, and that is more than the capitalists and politicians have done. We are giving every banker a job, every factory owner a job, every financial pirate a job, and if they refuse to work, in the language of St. Paul, 'He who does not work neither shall he eat.'

"In America the situation is reversed. The millions and millions who work are starved, and those who do not work, those few live on the luxuries of capital. Which do you prefer? (Cries of 'Russia!')

"Here is presented the problem: Shall the majority of people who work starve? Or shall the few who do not work starve if they refuse to work? The answer is very simple, and it is that the new State, the Socialist State, the Socialist conception of justice and right and ethics and morality, is that they who toil and labor and sweat and produce and make and create shall enjoy the product of their own labor. (Great applause.)

"With this, I want to end by telling you that there was a famous American about seventy years ago, an American who was made President of the United States, and who was perhaps the biggest man that the United States produced in the White House, notwithstanding the aspirations of the present occupier of that chair, and I am referring to Abraham Lincoln. (Applause.) Abraham Lincoln said one day at a critical period in American history, 'This country cannot remain half free and half slave.' That was seventy years ago, and it was true, it was an immortal truth.

"Since then the world has been knit together by telephone, telegraph, wireless, steamships and railroads, and aerial planes and all the modern instruments that made the world shrink into a little bit of a globe, the distance between here and Petrograd to-day being no greater than the distance between here and California was seventy years ago; and this world, in the language of Abraham Lincoln, cannot remain half free and half slave.

"If you commemorate the birthday of the Russian revolution, if you revere your Russian comrades, if you applaud Lenine and Trotzky (applause), if you believe in the worthiness of their cause, in the accomplishment of their work, then it is your duty to enter the Socialist movement in America, to make it more like Russia is to-day. (Great applause.)

"We must select between two alternatives: Either Russia lives and conquers the world—not Russia conquers the world, but its ideals and philosophy worthy of the Russian government to-day should conquer the world—either that or the ideas or the philosophy of Gary and Wilson and

Palmer, Lloyd George and Clemenceau is to conquer the world. Between the two, for my part, and for the part of thousands of Socialists now battling in America to-day, we choose to stand by the ideas and philosophy and program and principles of the Lenine and Trotzky as those we approve.”
(Great applause.)

Mr. Stedman.— May I take that a moment, please?

Cross-examination by Mr. Stedman:

Q. Your name; I did not get it? A. Willard B. Bottome.

Q. Bottome? A. Bottome. B-o-t-t-o-m-e.

Q. Mr. Bottome, have you your notes here? A. I have, sir.

Q. May I take them? A. (Witness hands over his notes.)

Q. At the time you entered the hall was it crowded? A. It was.

Q. Did you start to take your notes before you reached the platform? A. I did not.

Q. You reached the platform and then started to take them? A. I reached the platform, and then I got somebody to get me a little table; then I started to take notes.

Q. You did not start until that time? A. I did not.

Q. What system do you write? A. Well, I write a fundamental system of Graham and Ben Pittman, and then finally my own system.

Q. Will you turn to the opening paragraph in your notes on the address of Mr. Waldman; will you now read them, not openly, but will you run through the first paragraph which ends with the word “Russia?” A. “To enter Russia?”

Q. No, “American capitalistic regime and the British government and the French imperialism are refusing to permit food to enter Russia?” A. Yes, sir.

Q. You have that there? A. I have.

Q. Whereabouts? A. (Witness indicates on his note book).

Q. Will you mark that on the margin just over here so as to indicate it? A. (Witness marks note book as requested).

Q. Is the word “blockade” immediately after that? A. After what?

Q. After the word “Russia?” A. It is not.

Q. Or within the first two or three words? A. It is not.

Q. Will you indicate the word—the word “America” there?
A. Yes, sir.

Q. Will you indicate where that is? A. (Witness indicates). There it is; do you wish me to put a check on the margin?

Q. Yes, so I can refer to it later. Will you refer to that portion, if you can readily, where it purports to quote Edmund Burke as opposing the French Revolution in its fight against the Germans? A. What page is that on the transcript?

Assemblyman Waldman.—About the middle of the speech.

Q. The sixth page here, where it reads, "Ten thousand dollars a year in his time to fight the French Revolution against the Germans." It is in the paragraph, "You High School boys and girls will remember." It follows that one. A. I have it.

Q. Now, turning to the part following: Is that "German" there — "revolution against the Germans?" A. It is.

Q. Will you mark it on the margin; which is your word, "German?" A. I will put a circle around the word "Germans."

Q. How far were you from him when he was talking? A. I was to the right of the platform, right underneath him.

Q. He was standing on an elevation above you? A. I should say so. I should say he was three feet above me, about.

Q. And back on the stage? A. Somewhat back on the stage.

Q. Was there any commotion there at the time? A. Why, they were quiet; they were listening.

Q. There was no applause interrupting any part of it? A. The only applause is indicated in my notes; I have nothing —

Mr. Stanchfield.—That is indicated there (indicating exhibit No. 30 in evidence), but I did not read it.

The Witness (resuming answer): I have nothing in my notes at that point showing applause.

Q. Will you turn to the end and see if you have the words, "more like Russia" in your notes? A. Here it is. The quotation is, "to make it more like Russia is today."

Q. Did you write any before you had taken your seat; did you start to write before you took your seat? A. I did not.

Q. You were placed before you commenced to write? A. I asked one of the men there who seemed to be an attendant if he could get me a table, and he secured for me a small table and a chair, and I sat down and began to write from the first sentence you see there (indicating exhibit 30).

Mr. Stedman.—I would like to ask that the notes be offered in evidence.

The Chairman.—They will be received.

(The stenographic notes were received and marked Exhibit 31 in evidence of this date).

Mr. Stanchfield.—I offer, Mr. Chairman, this typewritten report of the meeting of the second anniversary of the Russian Soviet government in evidence.

The Chairman.—It will be received.

(The typewritten report of the meeting of the second anniversary of the Russian Soviet Government, heretofore marked Exhibit 30 for identification, is now received and marked Exhibit 30 in evidence).

The Chairman.—Is that all offered in evidence?

Mr. Stanchfield.—I offer the whole transcript in evidence, but the speech in question is only introduced now.

By Mr. Stedman:

Q. Did you check that on the side? A. Will you hand it to me, Mr. Stedman? What did you ask, if I checked on this side? I placed a circle around the word "America" on the first page.

Mr. Block.—In respect to this volume that is offered in evidence, I understand the Chairman asked whether it was offered only as to the stenographic transcript of the speech that Mr. Stanchfield read.

The Chairman.—That is what I asked.

Mr. Block.—And received only for that purpose?

The Chairman.—I understand it was to be received as to that speech that was read, and they are to submit it before they offer the rest of the book in evidence.

Mr. Block.—It is understood, then, on the record, it is only in evidence as to so much of it as Mr. Stanchfield has read.

The Chairman.—Up to this point, yes.

By Mr. Stanchfield:

Q. You have been a reporter of the Supreme Court for how long? A. I have been an official reporter of the Supreme Court for 15 years.

Q. And before becoming an official reporter of the Supreme Court had you practised stenography? A. Yes, for ten years before that.

Q. So that you have been a stenographer engaged in the active practice of that profession for something like 25 years? A. That is right.

Mr. Stanchfield.—That is all.

Mr. Stedman.—The only reason I made the inquiry was that I understand the thing you were offering was the speech you read and that only.

Mr. Stanchfield.—And I marked it as an exhibit for identification so that later if I wanted to offer more the exhibit would be identified.

The Witness.—Are you through with me?

Mr. Stanchfield.—Yes.

The Witness.—May I go back to New York?

Mr. Stanchfield.—Certainly.

The Witness.—(Addressing Mr. Stedman)—You don't wish to cross-examine me?

Mr. Stedman.—Unless there are other portions that are read.

The Witness.—Shall I remain here today or go back tonight?

Mr. Stanchfield.—It is optional with you.

The Witness.—I will go back then.

Mr. Stedman.—Evidently we are not pleasing to you.

The Witness.—I find you all very pleasing indeed.

The Chairman.—Proceed with the trial.

MICHAEL J. DRISCOLL, called as a witness, being duly sworn, testified as follows:

Direct examination by Mr. Stanchfield:

Q. Mr. Driscoll, where do you reside? A. 501 West 133rd street, New York city.

Q. And what is your occupation? A. Special Agent for the Joint Legislative Committee of the State of New York.

Q. And are you acquainted with Comrade L. C. A. K. Martens, the official representative of the Russian Soviet Republic? A. Yes, sir.

Q. Did you obtain from him the letter which I hand you, dated April 21, 1919 (witness shown letter)? A. I obtained this from a file in his office on that date.

Q. On or about what date? A. On or about June 12.

Q. Of what year? A. 1919.

Mr. Stanchfield.—I offer that in evidence.

Mr. Stedman.—I am objecting to this at this time for the reason that it is not shown to be connected in any sense with the Socialist Party or with any of the Assemblymen and I urge it specifically because I think if they will attempt to show it, they will find it was a document issued by what was known as the Left Wing which had no affiliation with the Socialist Party at the time of its organization. The signature is not proven nor the identification of the person.

The Chairman.—If that is so there won't be any harm.

Mr. Stedman.—The only thing is this when you come to the case at the end you are commenting on evidence which should not be admitted. The public impression constantly in offering documents of that kind is to charge us up with endorsing and accepting the theories and program of this branch.

The Chairman.—Well, let me see.

Mr. Stanchfield.—It is offered, if the Chairman decides to hear any argument on the subject, it has been introduced in evidence once before the Lusk Committee which, of course, makes it evidence here without any real introduction.

Mr. Stedman.—No, the only thing that would make it competent evidence here would be connecting it with the organization with which these parties are affiliated or that they had knowledge of it or that they endorsed it in express terms or writing or orally.

Mr. Stanchfield.—The point to my statement was that any exhibit introduced before the Lusk Committee, that being a Committee of the Legislature of the State of New York of which the

Chairman of this Committee is the Vice-Chairman of that, would ipso facto be evidence before this Committee.

The Chairman.— I shouldn't want to hold that quite.

Mr. Stanchfield.— Very well.

The Chairman.— I will let that be proven and see what shows up later. I wouldn't accept that suggestion of the counsel. If it is relevant to the issues as far as what we call building up your case is concerned and I think possibly it may be relevant, I will admit it. I will not be bound by the proposition that anything that went into the Lusk Committee should go in here.

Mr. Stedman.— My point further is this: I don't think we ought to be called to introduce evidence to show that this branch was suspended from the organization long before these men became candidates and were active in the Socialist movement. That ought to be an affirmative proposition to be proven by counsel representing the Committee of the Legislature.

The Chairman.— I don't quite see that. Assume they put that in and later you produce evidence to show that belongs to another branch. Then that destroys it.

Mr. Stedman.— But I think that should be a matter of affirmative proof rather than defense.

The Chairman.— I hardly think that. Admit it and see what there is to it.

Mr. Stanchfield.— I take it there is no dispute about the fact that Mr. Waldman comes from the Eighth Assembly district.

Mr. Waldman.— Not this Eighth.

Mr. Stedman.— He wants to know whether you are elected from the Eighth Assembly District.

Mr. Waldman.— Yes, that is true.

Mr. Stedman.— That is his question.

(The paper was received in evidence and marked Exhibit No. 32.)

Mr. Stanchfield.— This is headed the

“Socialist Party Eighth Ass. Dist., (with the torch in between) 122 Second Avenue, New York, April 21, 1919.

Comrade L. C. A. K. Martens, Official Representative, Russian Socialist Federated Soviet Republic. Greetings: The members of the 8th Assembly District, Local New York, Socialist Party of America, in regular meeting assembled this third day of April, 1919, sends greetings to you and pledge our co-operation in establishing the first representative of the Workers Government of Russia in America.

"We also pledge ourselves to work unceasingly for the propagation of those principles and policies and tactics that will aid directly in the establishment of a Socialist Federated Soviet Republic in America.

"Be it further resolved, That a copy of this resolution be printed in the N. Y. Call. Signed Rebecca Buhay, Secretary."

Then there is in the lower left-hand corner the party seal "Socialist Party, 8 A. D. N. Y."

Mr. Stedman.— The date, if you please?

Mr. Stanchfield.— April 21, 1919.

That is all, Mr. Driscoll.

Mr. Stanchfield.— I purpose, if the Chairman please, to read certain portions of Exhibit No. 26.

The Chairman.— Is it in evidence?

Mr. Stanchfield.— In evidence — by consent of Mr. Stedman, who agreed that it was authentic. It is dated Chicago, Ill., October 25, 1919. I read first the proposed preamble.

"The Socialist Party of the United States is the political expression of the interests of the workers in this country, and is part of the International working class movement.

"The economic basis of present-day society is the private ownership and control of the socially necessary means of production, and the exploitation of the workers who operate these means of production for the profit of those who own them.

"The interests of these two classes are diametrically opposed. It is the interest of the capitalist class to maintain the present system and to obtain for themselves the largest

possible share of the product of labor. It is the interest of the working class to improve their conditions of life and get the largest possible share of their own product so long as the present system prevails, and to end this system as quickly as they can.

"Insofar as the members of the opposing classes become conscious of these facts, each strives to advance its own interests as against the other. It is this active conflict of interests which we describe as the class struggle.

"The capitalist class, by controlling the old political parties, controls the powers of the state and uses them to secure and intrench its position. Without such control of the State its position of economic power would be untenable. The workers must wrest the control of the government from the hands of the masters and use its power in the upbuilding of the new social order, the Co-operative Commonwealth.

"The Socialist Party seeks to organize the working class for independent action on the political field, not merely for the betterment of their conditions, but also and above all with the revolutionary aim of putting an end to exploitation and class rule. Such political action is absolutely necessary to the emancipation of the working class, and the establishment of genuine liberty for all.

"To accomplish the same, it is necessary that the working class be powerfully and solidly organized also on the economic field, to struggle for the same revolutionary goal; and the Socialist Party pledges its aid in the task of promoting such industrial organization and waging such industrial struggle for emancipation.

"The fundamental aim of the Socialist Party is to bring about the social ownership and democratic control of all the necessary means of production — to eliminate profit, rent and interest, and make it impossible for any to share the product without sharing the burden of labor — to change our class society into a society of equals, in which the interest of one will be the interest of all.

"As subordinate and accessory to this fundamental aim, it supports every measure which betters the conditions of the working class, and which increases the fighting power of that class within the present system."

Is Mr. Wasserman in the room?

Mr. Berger.— I have a telegram from him saying he cannot be here until Thursday.

Mr. Stanchfield.— Mr. Stedman, with reference to other speeches in the book marked Exhibit No. 30, will you desire the stenographer to remain? He is busy in reporting a case and wants to get back. I want to read some more of these speeches at another point in the hearing. Of course, we can get him up here if you desire.

Mr. Stedman.— Whose speeches are they, may I ask?

Mr. Stanchfield.— They are the speeches of Waldman, Solomon, Zilboorg, O'Neill, Shiplacoff and Block.

Mr. Stedman.— I suggest you read those you wish, and if it necessary, we can ask him to return.

Mr. Stanchfield.— Yes, if you will let me know at any time, we can have him return. I will bring him back here.

Mr. Stedman.— Yes.

Mr. Stanchfield.— The stenographer may go.

On the reverse side of Exhibit No. 26 are two reports, one headed "Minority Report" and the other "Majority Report," which were adopted at the National Convention in Chicago on September 4, 1919, and submitted for referendum by the National Convention.

Mr. Brown.— The majority report was adopted.

Mr. Stedman.— The majority report was adopted by the convention. Under the rules of the convention, the minority with the majority report are set out for adoption by the members.

Mr. Stanchfield.— And our information is that the minority report was adopted by a vote of 3,475 to 1,444 for the majority report, and that only two States — Wisconsin and Oklahoma — voted against the Third International.

Mr. Stedman.— I have no information on that, but from the number of votes you have mentioned it is certain that a vote of

the party has not been recorded, because the membership is so much larger.

Mr. Stanchfield.— Well, that may be. I will first read the minority report:

“We consider that the Second International ceased to function as an International Socialist body upon the outbreak of the world war.

“All efforts to bring together the elements that made up the former International have only added strength to this conviction. The Berne Conference was a notable example of this collapse especially with reference to its failure to take a helpful attitude toward Russia, and its policy of hanging onto the tails of the Peace Conference in Paris and placid acceptance of rebuffs given it by members of that conference, the refusal of Russian passports, for instance.

“Any International, to be effective in this crisis, must contain only those elements who take their stand unreservedly upon the basis of the class struggle, and who by their deeds demonstrate that their adherence to this principle is not mere lip loyalty.

“When leading Socialists join their national government upon a coalition basis they accept and sanction policies which hinder Socialists and the working class generally from taking full advantage of the opportunities for deep-seated change which the war creates. This makes the workers content with superficial reformist changes which are readily granted by the capitalist class as a means of self-protection from the rising tide of working class revolt.

“And when Socialists use the military organization of the master class as a means of crushing the agitation of their more radical comrades they flatly take their position with the counter-revolutionaries whom they serve.

“The Second International is dead. We consider that a new International which contains those groups which contributed to the downfall of our former organization must be so weak in its socialist policy as to be useless.

“The Socialist party of the United States, in principle and in its past history, has always stood with those elements of other countries that remained true to their principles. The

manifestos, adopted in national convention at St. Louis (1917) and Chicago (1919), as well as Referendum 'D' 1919 unequivocally affirm this stand. These parties, the Majority parties of Russia, Italy, Switzerland, Norway, Bulgaria, Serbia, Greece, and growing minorities in every land, are uniting on the basis of the preliminary convocation, at Moscow, of the Third International. As in the past, so in this extreme crisis, we must take our stand with them.

"The Socialist Party of the United States, therefore, declares itself in support of the Third (Moscow) International, not so much because it supports the 'Moscow' programs and methods, but because:

"(a) 'Moscow' is doing something which is really challenging to world imperialism.

"(b) 'Moscow' is threatened by the combined capitalist forces of the world simply because it is proletarian.

"(c) Under these circumstances, whatever we may have to say to Moscow afterwards, it is the duty of Socialists to stand by it now because its fall will mean the fall of Socialist republics in Europe, and also the disappearance of Socialist hopes for many years to come."

"MAJORITY REPORT.

"The Second International is no more. We repudiate the Berne conference as retrograde and failing to act in the interests of the working class. It is the duty of the Socialist Party of the United States actively to participate in the speediest possible convocation of an International Socialist Congress and to make every effort to reconstitute the functioning of the International.

"In the reconstituted Socialist International only such organizations and parties should be given representation which declare their strict adherence by word and deed to the principle of the class struggle.

"To such an International must be invited the Communist parties of Russia and Germany, and those Socialist parties in all countries which subscribe to the principle of the class struggle. No party which participates in a government coalition with the parties of the bourgeoisie shall be invited.

"In such Congress our party should urge the reconstruction of world-wide organization of the Socialist proletariat upon closer and firmer lines than have prevailed in the past, to the end that the Revolutionary Proletarian forces of the world may at every critical moment be effectively mobilized for simultaneous and harmonious action."

Mr. Stedman.— Mr. Chairman, I am moving to strike this out, as there is no connection shown between this and the Moscow Manifesto in any way, of approval or disapproval. There is nothing in this document which recognizes or supports any statement of fact as to policy, program or tactics of the Moscow conference.

The Chairman.— You have two reports there of the same Convention.

Mr. Stedman.— There are two reports, neither of which— one of which would be binding without reference to the membership. That would be the majority report which is the action of the convention. The Minority Report would be binding providing the members by their vote adopted the Minority Report in favor as against the Majority Report; but neither of the reports do more than to recognize— let us take the Minority report for instance. The Minority Report recognizes the Moscow Internationale but it specifically rejects the acceptance or approval of the tactics, theory or Manifesto that is promoted and suggested and published by the Conference. Perhaps we should not say rejects it. It does not accept it. In other words, you have a European situation with which the party here is not familiar. We had no accredited representatives and there is no evidence that any participated. There was no knowledge, in a detailed sense, as to what that convention proposed, whether it was dealing solely with a local condition and to what extent it was dealing with an international phase of the movement. And neither resolution affirmatively approves for this country or for any other country. Of course, we assume they are pursuing a proper course for their own country, but for no other country the tactics emphasized in the Moscow Manifesto. Now, until this Convention specifically goes on record to the effect that we endorse and adopt the Moscow Manifesto as a course of action to be pursued in the United States, and these persons, who are Assemblymen here, accept that, up to that point it is incompetent.

The Chairman.— Now, you have it there for what it is worth and I should think you would rather have it in the evidence than out, because we have to consider something. That is part of the proposition. Now, how can we pass on these matters without we have them before us? You say they don't connect up. If by reading them we find that so, then that is the end of the proposition, yet we ought to have them for the examination of the Committee.

Mr. Sutherland.— We have no other official communication from the Moscow outfit, except the one that has been read in evidence, and that has been replied to by this Manifesto of the September Convention and these resolutions. The Minority and Majority resolutions both agree in disapproving of those branches of the Socialistic Party in the warring countries which were loyal to their governments. They both disapprove of that.

The Chairman.— Allow me to suggest that you are both of you arguing the case as if the case was finished. Now, that is a matter for argument at the conclusion of this investigation, the attitude that Mr. Stedman takes and the attitude that you take. Later, it is a question whether you connect the Assemblymen or not. Mr. Stedman argues just the other way. Now, isn't it proper that we should have the papers in the book so that we can look at them? I should think that you, Mr. Stedman, would prefer it.

Mr. Stedman.— Only in this sense: if a document clearly can be seen to refer to another document then the connection is made, but, for instance, supposing instead of offering this they had offered the Rubyat, there would be no connection shown.

The Chairman.— No.

Mr. Stedman.— Now, then, the document they show here, with the two resolutions, majority and minority, do not by any implication that can be drawn from the text approve or disapprove the Moscow Manifesto. Now, if there is no affirmative adoption of it, then so far as those two documents are concerned, they do not relate themselves together as a text.

The Chairman.— I concur with you in that. If there is none then we will find there is none.

Mr. Stedman.— That goes of course to the admissibility of it.

The Chairman.— I think it is admissible under the situation, Mr. Stedman, for whatever it is worth.

Mr. Stanchfield.— There are four lines of the Rubyat I would like to put in, but it is five o'clock, Mr. Chairman.

The Chairman.— You gentlemen have quite a complicated lot of literature in here now. I should prefer not to have that in.

Mr. Stanchfield.— It is five o'clock, Mr. Chairman, and I move that we now adjourn.

The Chairman.— Is that agreeable to you, Mr. Stedman?

Mr. Stedman.— It is.

The Chairman.— The proceeding will stand adjourned until 10:30 o'clock to-morrow morning.

Accordingly, at 5 o'clock P. M., the hearing was adjourned to to-morrow, Wednesday, January 28, 1920, at 10:30 o'clock A. M.

STATE OF NEW YORK — ASSEMBLY CHAMBER

In the Matter of the Investigation by the Assembly of the State of New York as to the Qualifications of Louis Waldman, August Claessens, Samuel A. deWitt, Samuel Orr and Charles Solomon to Retain Their Seats in Said Body.

THE CAPITOL,

ALBANY, N. Y., *January 28, 1920.*

Present:

Hon. Louis M. Martin,
 Hon. George H. Rowe,
 Hon. James M. Lown, Jr.,
 Hon. Edward A. Everett,
 Hon. William A. Pellet,
 Hon. Edward J. Wilson,
 Hon. Charles M. Harrington,
 Hon. Harold E. Blodgett,
 Hon. Theodore Stitt,
 Hon. Louis A. Cuvillier,
 Hon. Maurice Bloch,
 Hon. William S. Evans.

Appearances:

For the Judiciary Committee:

John B. Stanchfield,
 Elon R. Brown,
 Charles D. Newton,
 Harry F. Wolff,
 Thomas F. Carmody,
 Arthur E. Sutherland,
 Samuel A. Berger,
 Archibald F. Stevenson,
 Martin Conboy.

For the Socialists:

Seymour Stedman,
 S. John Block,
 William Karlin,
 Gilbert E. Roe,
 Walter Nelles.

LOUIS M. MARTIN, Chairman

(The Committee met pursuant to adjournment at 10:40 A. M.)

Mr. Stedman.—Mr. Chairman and gentlemen of the Committee, I have a motion to make or two.

First, I want to renew my motion to strike out the letter of Rebecca Buhay, dated, as I recall, the 5th month, 21st day, 1919, addressed by her to Martens with the seal of the Socialist Party of the Eighth Assembly District. I make that motion and insist that it ought to prevail until there is some connection shown between that organization and the Socialist Party. I do it making the statement that I am satisfied that the evidence will show that the organization which issued that statement through its officer was not affiliated with the Socialist Party, had been excluded from the Socialist Party because of the very attitude taken by them which prompted the writing of this letter; that they took the seal; that they took the name; that they had a headquarters from which they were later required to move, required to leave; that the organization of which the assemblyman here belong, Mr. Waldman, was in opposition to it and that that organization even nominated a candidate at the primaries in opposition to Mr. Waldman.

Now, it should not go out in the public mind that the party who wrote that letter, the organization of which she was secretary, which was politically openly opposed to Mr. Waldman and which issued a letter from a different organization, the two organizations being bitterly hostile, that that should be charged up to him, if that is simply put in the press an investigation would disclose to the counsel, so that the newspapers would tie up Waldman and our organization with one which has no affiliation, one where there has been a bitter contest and open political rupture, and an open political organic rupture.

I also wish to renew my objection to the admission of the speech of Mr. Trachtenberg, or speeches by other than the assemblyman. In the absence of evidence showing that the meeting on the 7th day of November, for the celebration of the second anniversary of the Soviet Government; in the absence of evidence to show that the meeting itself was unlawful, any act of any person there, other than the assemblyman, would be incompetent, because you cannot charge it up to them. They would have no control over any statement made by any other speaker there, and

could only be responsible for it if the meeting was called for an unlawful purpose and they knew it, and it was part of a plan in their mind that somebody else should make some improper statement. That would be the only theory upon which it would be competent, and I do not understand that to be the theory upon which the charges in this case were preferred. But in the first instance, it should be stricken out now unless they will stand up before the chairman of this Committee and say that they will connect the Eighth Assembly organization with the Socialist organization with which Mr. Waldman was affiliated, and say that there was some relation between the two, and show that relation.

Mr. Sutherland.— Mr. Chairman, that connection has already been proven by the very document itself, headed on the stationery of the Socialist Party, bearing their emblem, with the seal of the Eighth Assembly Party organization upon it. It is a matter for defense for them to disconnect themselves with that organization on the face of it. By every sign and token of regularity it is an expression of the party will of this organization of the Eighth Assembly District. Counsel has said here what they purpose to prove and asks upon his unsupported verbal assertion now — what he is going to prove — that you strike the letter out of the record —

Mr. Stedman.— I cannot see —

Mr. Sutherland.— Wait a minute, if you please, sir. We have established the regularity of that document. It is for them to purge themselves of the consequences of that public official declaration.

Now, as to Mr. Trachtenberg's remarks, they were made at a meeting called by the Socialist Party to celebrate the second anniversary of the Russian Revolution. Now, that meeting was called by their party managers. It was advertised in the New York Call, and the significance of Mr. Trachtenberg's remarks lie not only in the fact that the meeting was openly proclaimed as a Socialist meeting, not only in the fact that Trachtenberg was one of the high priests serving at the altar, but also his remarks preceding those of the assemblyman whose right to a seat is now in issue here, and what the assemblyman said after Mr. Trachtenberg had made his remarks. After Trachtenberg had explained

the purposes and the idea of the Soviets of Russia, and their connection with the comrades in America, that being all laid out before the meeting in clear and unmistakable phraseology; then comes the speech of the assemblyman-elect, in which he embraces this proposition in words and phrases that are unmistakable. The preceding remarks of Trachtenberg are, therefore, competent and pertinent, as showing what the assemblyman-elect had in his own mind, and what he desired his audience to understand when he said that, as for him, he committed himself to this party and to its policies and to its program.

Mr. Stedman.—Replying to the last. It is a well-known rule of law, founded in Horton, that “One man’s malice does not constitute another man’s offense.” It is a maxim that applies here. There is no responsibility on the part of any assemblyman for what any other person said at that meeting, excepting themselves, unless there was an agreement made defending an unlawful purpose, and each one of the persons was participating in carrying that out. I do not understand that this is the theory, and it cannot be the theory so far as the charges stated by the Committee and elucidated by its supplemental statement; but aside from that in regard to the Assembly District, counsel of course by very little investigation would have known that there was a break in the Socialist Party; that that break took place because of the differences between the Communists and the Socialists,—and I assume they are interested in arriving at the truth,—and, therefore, it became important for them at least to assert the evidence, easily obtained, that Waldman was a member of the organization which sent the letter to Martens. I venture to say at this moment that counsel will not even promise to show his membership in that organization. They will not even promise to show that there was but one organization in that district, and they will not be able to show that that very Assembly District, whose letters they read, did not nominate a candidate against Waldman showing the distinct differences between the two, and that is the difference that is important for this Committee, the assemblymen and the public to understand.

We object to having evidence brought in here of an organization that is separate from ours,—the break having occurred, the severance complete,—and charging their theories up to us. Their problem of course is their own. Their differences with us is their

own, and not characterizing the arrangement of the faithfulness of their program, but we have disagreed with it clearly and distinctly, and we object to having their position, because in certain instances they raided, if you please, or took the seal and stationery of the organization, that we should be charged up with their theory. We are willing to stand by ours,— our propaganda and our theory, without mitigating one dot what it purposes to do, but we object to having another political party's opinion foisted upon us by this indirect method.

Mr. Stanchfield.— Replying for a moment to Mr. Stedman's opening sentence that "one man's voice did not reflect on another man's offense" hinges entirely upon the nature and the character of the accusation that is laid at the door of the man whose sense is sought to be bound. Now, the whole theory of this investigation rests upon the proposition that the Socialist Party, of which the five members under investigation are confessedly, conceded members, has embarked upon a program that calls for the overthrow of our form of government, some assert by constitutional means, others by violence. Now, assuming that that program is the basic charge under investigation, then my argument runs along this line: That every pamphlet, every declaration, every speech, every statement of every man who is affiliated with or belongs to that party, not necessarily in a technical sense of belonging to it, but everybody who upholds those claims, who supports those principles, who stands upon that platform, is bound by the speeches, the sentiments, the writings, the books, the publications of every other man affiliated with that association, whether they were present at the time when it was made or they were uttered, or whether they were absent.

Now, confessedly that is a correct statement in broad, clear and comprehensive language of the claim that we make.

Mr. Stedman.— In reply to the last I can only say that I think counsel's statement correctly reveals his theory of this case that the Socialist Party itself is a conspiracy, and that any statement made by anyone, a member or a non-member, who thinks he approves of its program, is chargeable against these Assemblymen, but that is not the charge made in the specification filed.

The Chairman.— I think, Mr. Stedman, that is a matter that you can clear up when you come to your side of the case. If your

statement is true, you will establish, no doubt, by your evidence, that these Assemblymen are not connected up with the people that sent that paper out at all. Now, I think you gentlemen are anticipating the case and making your final arguments on the admissibility of evidence.

Mr. Stedman.— Let me see if I can clear it up. On what theory does Waldman take the responsibility for that letter? If it is competent evidence, the theory of knowledge and participation. That is a matter of affirmative proof —

The Chairman.— Oh, no; I cannot be sure on that.

Mr. Stedman.— Let us see; a gun is fired, a man is shot; I am at a distance. Do you mean to say that it is not a matter of affirmative proof to show that the revolver was in my hand, or that I aided, affirmatively abetted the person who perpetrated the crime? Is that a matter of defense? If this man is charged with pursuing conduct to overthrow the government by force, and that is manifested through the act of another, the connection is fundamental and it requires affirmative proof, not that we cannot meet it; that is not it. Our empire was so visible and open that we can,— but the point is that this proof that they should introduce, and upon failing to introduce it and proving it, we should not be required to defend against it. That is the proposition. It is material vital evidence,— either they connect Waldman or they do not, and we have no right to try a case on the theory where you can defend against it. The first proposition to establish is that they prove the facts necessary so that if deemed to be true that it requires a defense.

The Chairman.— Motion denied.

Mr. Stedman.— Exception.

The Attorney-General.— I announce that I have secured as associate counsel Mr. Martin Conboy of New York.

The Chairman.— And the record may so state.

Mr. Stedman.— I now move that the speeches of all the persons at that meeting be read, the meeting of the 7th. They have read the speeches of Waldman, they have read the speeches of Trachtenberg, and I now insist that they read the speeches of all of the persons present at the meeting, as all of that took place.

Mr. Stanchfield.— I think, Mr. Chairman, we have the right to control the order in which we will introduce this testimony.

The Chairman.— The entire minutes are in evidence, I take it.

Mr. Stanchfield.— Yes.

Mr. Stedman.— No, Mr. Chairman. This is my point. I object to taking a column of a newspaper and picking out a sentence; I object to taking a portion of the speech and characterizing that as reflecting the entire meeting. We are entitled to all of the speeches at that meeting, so that a person can say there is the meeting before us, and not take an excerpt here and an excerpt there. We are entitled to the entire transaction, all that went on at the meeting.

The Chairman.— On the motion of Mr. Stedman about reading the entire paper, the Chair thinks that the paper or document being in evidence, that at such time as Mr. Stedman desires, he can read such portions as he desires.

Mr. Stedman.— Very well, I should like to; I should like to have it read now.

The Chairman.— I think it is a matter of affirmative defense.

Mr. Stedman.— No; if they are offering a document in evidence I am entitled to have the entire document presented at the time.

Mr. Stanchfield.— The technical situation is that the document was marked for identification and later, at the suggestion of Mr. Stedman, and in order to avoid the necessity of recalling the stenographer, it was marked for evidence. I say to the Chairman that in due course, connecting them up logically, we propose to read different speeches in that exhibit. There is no reason why we should be called upon to read them at this time.

Mr. Stedman.— Exception.

Mr. Stanchfield.— Is Miss Stern here?

ANNA STERN, recalled, testified as follows:

By Mr. Stanchfield:

Q. Miss Stern, have you been asked by the service of subpoena

duces tecum to produce a copy of the manifesto of the Socialist Party for the Bronx? A. Not exactly that manifesto; I was asked to produce manifestoes and proclamations.

Q. Have you produced them? A. The only one I had.

Q. I hand you what purports to be a manifesto of the Socialist Party and ask you whether or no the exhibit which I hand you is the one which was circulated in the Bronx or a copy of it? A. It is New York county.

Q. Now is there one for the Bronx?

Mr. Sutherland (Hands paper to Mr. Stanchfield)—Mr. Nelles just produced this.

Q. The one you hand me is from New York county? A. I don't know, sir, that is marked New York county on the back.

Q. Is it according to your judgment New York county? A. All I can tell from that, is that it has Socialist Party, New York county address on it.

Q. What is that you have in your hand? A. This is the one I gave you the other day.

Q. And this is for the Bronx? A. Yes.

Q. That you identify? A. Yes.

Mr. Stanchfield.—I offer in evidence Exhibit 15 for identification, being the manifesto of the Socialist Party, which Miss Stern says is the one that was circulated in the county of Bronx?

The Witness.—Yes, sir.

(The paper referred to was marked Exhibit 15 of this date.)

Mr. Stanchfield.—This is substantially, if the Committee please, a copy of the manifesto that was read yesterday, this being the one adopted at the Chicago Convention. I will not read all through in detail. I do read from it into the record the large black type headings that appear upon the exhibit, which are as follows:

“Manifesto of the Socialist Party.” “Socialist Party adopts ringing address to the American workers at Chicago Convention.” The second large headline: “The Cost of War.” The third, “The Peace of Violence.” The fourth, “The League of Nations and the Capitalist Black International.” Fifth, “Workers must conquer State.” Sixth, “The March of Laborers’ Hosts.” Seventh, “U. S. Bulwark

of Reaction." Eighth, "Civil Liberties destroyed." Ninth, "Rampant Profiteering." Tenth, "U. S. Labor Awakening." Eleventh, "Socialist Party Revolutionary and Uncompromising." Twelfth, "Aim of Socialist Party Democracy."

By Mr. Stanchfield:

Q. Have you any similar manifesto for Kings county, or Queens, or Richmond, Miss Stern? A. No.

Q. Now, what official relation did you state the other day that you bore to the Socialist Party of the Bronx? A. Executive secretary.

Q. Have you a list of the membership of the Socialist Party of the Bronx? A. No list — card records.

Q. Card records? A. Yes.

Q. How many due-paying members are there in the Bronx? A. Why, I can't tell you now. I haven't a tabulated account up to date.

Q. Well, what was the number of due-paying members at any time that you have in your memory? A. Why, about 1,200.

Q. About 1,200? A. Yes.

Q. And when were there 1,200 due-paying members according to your best recollection? A. In July.

Q. In July of 1919? A. Yes.

Q. Do you know, at the last election, about how many Socialist votes were cast in the county of the Bronx, roundly speaking? A. Why, no, I couldn't say exactly.

Q. I do not want it exactly; just your best recollection? A. I couldn't tell you anything. The Board of Elections had not yet compiled the complete returns when I left New York.

Q. Well, was there not some general statement in the press as to the number of Republican votes, the number of Democratic votes and the number of Socialist votes? A. Why, according to Assembly districts, but not for the entire county.

Q. What? A. According to Assembly districts, but not for the entire county.

Q. Have you any means of furnishing us with information as to the number of due-paying members in the different Assembly districts of the Bronx that are here and available? A. Not right now.

Q. Well, now the cards that you say you have, that would

indicate the due-paying membership in the county of the Bronx, are in the Bronx now? A. Yes.

Q. In your office? A. Yes.

Q. Is there any one there? A. Why, just a girl, a stenographer, just taking care of the office.

Q. Well, I do not care to compel you to bring them up here by subpoena, but I do desire to know the number of due-paying members in the Third Assembly district of the Bronx, which is the district from which Mr. deWitt is the member; and also the number of due-paying members from the Fourth Assembly district of the Bronx, which Mr. Orr represents. Now, will you furnish me that information in the light that I do not compel you to bring any cards here?

Mr. Stedman.— You can have some one look it up, can't you?

The Witness.— Why, I will get that in a day or two.

Mr. Stanchfield.— If you will get it, I won't compel you to bring the cards here. I do not desire to compel you to furnish the names, but I want to get the number of them.

Mr. Stedman.— We will furnish that.

Mr. Stanchfield.— I think that is all, Miss Stern.

Cross-examination by Mr. Stedman:

Q. Miss Stern, referring to the manifesto to which your attention has been called, when was that circulated? A. Why, during the month of October.

Q. That was during the election? A. Yes, sir.

Q. During the campaign? A. Yes, sir.

Q. Circulated generally on the street? A. All over; all over the Bronx.

Q. Do you know about how many copies? A. About 50,000.

Mr. Stanchfield.— I suppose, Mr. Stedman, we can have somebody, when Miss Stern goes back to the Bronx, go there and look at those records?

Mr. Stedman.— Yes.

Mr. Stanchfield.— Miss Stern, you understand that it is agreed by Mr. Stedman that we may send some one to your office, at a time to be agreed upon, to go over those records in your presence, with you?

The Witness.— Yes, I understand that.

Mr. Stedman.— There is no question about the names. Mr. Stanchfield just wants the records.

Mr. Stanchfield.— I tried to make that perfectly clear. Is Mr. Chatcuff here?

Mr. Nelles.— I have Mr. Chatcuff's papers, which I went over with your representative the other day. One is the volume of minutes.

Mr. Stanchfield.— I offer in evidence this manifesto — this paper — which, from its appearance, is substantially the same as the one I have just introduced from the Bronx, which is the one which was circulated in the county of Kings, the exhibit being produced by Mr. Nelles, of counsel for the man under investigation.

Mr. Stedman.— Is there any evidence as to the number that was circulated? Tell us at this time, I would like to know.

(Manifesto referred to received in evidence and marked Exhibit No. 33).

JULIUS GERBER, recalled, testified as follows:

Direct examination by Mr. Stedman:

Q. Will you examine Exhibit No. 33? A. Yes.

Q. That is the same as the manifesto of the organization excepting the local advertising matter? A. Yes.

Q. As the local organization? A. Yes.

Q. How many were circulated? A. 50,000 in Kings county.

Q. When? A. During the latter part of September and October.

Q. With reference to the election, what period was that? A. During the campaign.

Q. Your election was on what date? A. The 4th of November.

Q. And this was immediately prior to that? A. Prior to the election day.

Q. And this is the same, excepting the headquarters announcement, as Exhibit No. 15, which was circulated in the Bronx? A. Exactly.

Q. Does that also apply to New York county? A. Yes, except that we circulated 100,000 in New York.

Cross-examination by Mr. Stanchfield:

Q. Were you at the Chicago Convention? A. I was.

Q. Did you hear Mr. Block, of counsel for the five men under investigation, read the manifesto to the listening and attentive convention? A. I did, sir.

Q. You recollect you were present when he read it? A. I was.

Q. Well, you heard me read it yesterday? A. I did.

Q. You have testified to Mr. Stedman that the phrasing of this was similar to the one that was read. I call your attention to this: "We, the organized Socialists of America, pledge our support to the revolutionary workers of Russia." The language in the manifesto that I read yesterday was: "We declare our solidarity with the workers of Russia," was it not? A. I think that is what you read, Mr. Stanchfield.

Q. What is that? A. I think that is what you read yesterday.

Q. I say that was the language of the one I read, that was published in the organ, "The Call" by the company of which you are the president? A. I am not the president — secretary.

Q. Secretary — excuse me for lessening the honor; but it is published by the company of which you are secretary? A. Yes.

Q. And in the one I did read appears the phraseology: "We declare our solidarity with" and not the language "we pledge our support to"? A. That is correct, but this is the official document. The other one is the one that was sent by the reporter, and this was adopted by the convention.

The Chairman.— That difference came up yesterday. The difference was shown between the one you have and the one Mr. Stedman has.

Mr. Stanchfield.— Well, if the Chairman has that in mind, I will not spend any more time with it, except I would like the Committee to see that that is apparently a formal document.

The Witness.— Let me see the dates, Mr. Stanchfield.

Mr. Stanchfield.— September 5th.

By Mr. Stanchfield:

Q. You said you live in Brooklyn, Mr. Gerber? A. Yes.

Q. Mr. Solomon, one of the five men under investigation, is a member from the 23d Assembly District of Kings? A. Yes, sir.

Q. Do you know the entire voting population of that district?
A. I do not.

Q. I mean the number of it? A. I do not.

Q. Do you know how many due-paying members of the Socialist Party there are in that district? A. I do not.

Q. That information is obtainable from the cards that you stated yesterday you had? A. Not from cards. I have not got any cards of Kings county.

Q. Who would have possession of those? A. Well, if we have any, Mr. Chateuff would have them.

Q. And Mr. Chateuff is not here? A. He was here yesterday; I saw him yesterday, and I am sure he has not left.

Mr. Stanchfield.— Do I understand, Mr. Nelles, that you produce these exhibits that you handed me, as representing Mr. Chateuff; is that the idea?

Mr. Nelles.— You will recall the stipulation made the other day, that these exhibits be examined in private by your representative and by me. Mr. Chateuff gave me his papers, and several of the others gave me their papers, and I went over them with your representative, and I have not seen him since.

Mr. Stanchfield.— I would like you to let me know if Mr. Chateuff comes into the room, so I can call him. I think that is all at the moment, Mr. Gerber.

Cross-examination by Mr. Stedman:

Q. You were present at the convention, and do you recall that when the manifesto was read, that after its submission, there were criticisms made from the floor? A. Yes, sir.

Q. And there were changes made? A. Yes, sir.

Q. The one as originally reported was given to the press? A. Yes. That is why I asked for the date, because I remember a report was made on Thursday, and appeared in the press on Friday, whereas, the document, with all the corrections, was not adopted by the convention until late Friday afternoon, and I, being secretary of the convention, remember it very well.

Q. And this was a report that went out for your final approval? A. Yes, sir.

Q. When I refer to "this report," I refer to the one in "The Call," Exhibit — A. Yes, that is the Thursday's.

Q. Exhibit No. 6 for identification? A. Yes.

Mr. Stanchfield.—Is that all, Mr. Stedman?

Mr. Stedman.—Yes.

Redirect examination by Mr. Stanchfield:

Q. Mr. Gerber, were there minutes kept by stenographers of the proceedings of the Chicago convention? A. I do not know whether there were any kept by stenographers; they were kept in longhand.

Q. By you or by persons under your direction? A. By me and several others.

Q. Have you got those minutes? A. I have not; I left them in the office in Chicago.

Q. In Chicago? A. Yes.

Q. Were they ever copied or printed, so far as you know? A. Not that I know of.

Q. There is no copy of them, then, available to you? A. Not that I know of; I never saw a copy.

Q. None within the jurisdiction of the State of New York that you know of? A. Not that I know of, Mr. Stanchfield.

Q. Is there a paper known as the "Bulletin" that contains the official proceedings of the Socialist conventions? A. Yes.

Q. Was there one published at or about the time of the Chicago convention? A. There was.

Q. Have you a copy of that? A. I may have one; I am not sure.

Q. Will you look and see and produce it here without any further process, if you have it? A. Yes, sure, if I can find it.

Mr. Stedman.—Mr. Stanchfield, if I may interrupt, I am quite certain that I have one here.

Mr. Stanchfield.—All right, if you will let me take it when you put your hand on it.

Mr. Stedman.—I might say in reference to taking the proceedings of the convention, they secured a stenographer on the second day but it has never been written up.

(Mr. Stedman then hands paper to Mr. Stanchfield.)

Mr. Stanchfield.—May we look at this and return it to you?

Mr. Stedman.— Certainly.

Mr. Stanchfield.— Mr. Stedman, you stated that there was a stenographer, if I understand you, called in upon the second day of the convention.

Mr. Stedman.— The stenographer was ordered to be present, as I recall, the first day, but I think that the stenographer for the Party arrived late the first day or the morning of the second.

Mr. Stanchfield.— Do you know the name of the stenographer?

Mr. Stedman.— Yes; Miss Minnie E. Meyers was the one who had charge.

Mr. Stanchfield.— Is she a resident of the State of New York?

Mr. Stedman.— She is a resident of Chicago, with an office in the Ashland Block. I will say also there was a reporter present from the opening who represented the State's Attorney. There was a person who reported for the Government, but he was not a shorthand reporter, and simply reported his views and his judgment of the purpose, object and influence of the convention.

Mr. Stanchfield.— I will mark this "Bulletin" simply for identification, in order to describe it on the record.

(Paper referred to marked Exhibit No. 34, for identification.)

By Mr. Stanchfield:

Q. How often, Mr. Gerber, is the Exhibit 34 for identification, being a copy of the "Bulletin," handed me by Mr. Stedman, published? A. This is supposed to be published every month.

Q. It is a monthly publication? A. Yes, but I did not get the number from January, 1919, until December, 1919. It took a year to get here from Chicago to New York.

Q. Have you at your offices in New York the files of the "Bulletin"? A. I have not.

Q. For any period of time? A. I have not because they came so irregularly.

Q. Do you preserve those that did come, and if you did are those that you have in such condition that they will be made available for our examination? A. I think so.

Q. Without my subpoenaing you to produce them? A. I will bring them up.

Mr. Stedman.— May I ask, would they be here in time for your service if I telegraphed to-day for them?

Mr. Stanchfield.— Yes, they would.

By Mr. Stanchfield:

Q. Mr. Gerber, Mr. Waldman, of the five under investigation, is a member from the Eighth Assembly District, New York? A. Yes, sir.

Q. Do you know approximately the number of dues-paying members in that district? A. I do.

Q. How many are there? A. At the present time about 150 or 200; between 150 and 200.

Q. Do you know how many votes, approximately, were cast for Mr. Waldman at the last election? A. Well, I think it was a little over 5,000, if I am not mistaken.

Q. Now, do you recollect how many were cast for his opponent? A. Less than that, because there were two candidates.

Q. Do you know about how many? A. I do not.

Q. Well, three or four thousand? A. Well, the difference was perhaps about 150 or 200, something like that.

Q. Between Mr. Waldman and his opponent the difference you think was from 150 to 200 votes? A. That is the official difference.

Q. That would make a total vote of something like 10,000? A. Yes.

Q. And in the whole district there are about 150 dues-paying members of the Socialist Party? A. Yes, sir.

Q. Now, addressing your attention to Mr. Claessens, he comes from the 17th Assembly District, New York? A. Yes.

Q. How many dues-paying members in the 17th Assembly District? A. Between 200 and 300.

Q. And about how many votes did Mr. Claessens receive at the last election? A. A little over 6,000.

Q. And about how many did his opponent receive? A. Close to 6,000.

Q. Close to 6,000? A. Yes, sir.

By the Chairman:

Q. There was a difference of about forty? A. No, the official difference was about sixty, but the unofficial about 1,600. I was there and I saw it.

By Mr. Stanchfield:

Q. Then, the entire vote is approximately what of that district?

A. I think there were about 13,000 registered voters in the 17th.

Q. And between 200 and 300 dues-paying members of the Socialist Party? A. Yes, sir.

Cross-examination by Mr. Stedman:

Q. Where was the convention held? A. In Chicago.

Q. What building, if you recall? A. Machinists' Hall.

Q. What building? A. Machinists' Hall.

Q. And on what floor? A. The second floor.

Q. Was there more than one convention at that time? A. There were two in that building and another one somewhere else.

Q. Where was the convention of the Socialists held? A. On the second floor.

Q. What was the convention below? A. They finally organized themselves as the Communist Labor Party.

Q. Was the convention of the Communist Labor Party being held at the same time? A. Yes, sir.

Q. Was there any fraternal delegations between those three conventions?

Mr. Stanchfield.— I object to that. It is not proper cross-examination.

The Chairman.— He may answer.

A. None between the Socialist Party and the others.

Q. I mean between the Socialist Party and the others. A. There were not between the Socialist Party and the others.

Q. Were they friendly or bitterly hostile? A. Well, I would rather classify it as hostile.

Q. They had police there in the Socialist Convention, did they not? A. We had police there, and I had a little of it myself.

Q. Very well. Now, coming to the Assembly districts, isn't it a fact, in referring to Waldman, deWitt, Claessens, Solomon and Orr — isn't it a fact that the Communists or the Communist Labor Party had opposition candidates to them at the primaries?

A. They did in the Eighth Assembly District in Manhattan.

Q. Do you know about the others? A. I do not. They had none in the 17th Manhattan; but they did in the Eighth.

Q. Did they have in the 23rd, the Bronx District? A. I had my hands full with Manhattan.

Q. I am just asking you. If you do not know, answer "no."
A. I do not know.

Q. Do you know Rebecca B. Buhay? A. I heard of her.

Q. Was she a member of the Socialist Party in April of last year, or May? A. She was prior to that.

Q. I am asking you, was she a member of the Socialist Party in April or May of 1919? A. No, she was not.

Q. Was the organization with which she was affiliated, was that affiliated with the Socialist Party at that time? A. It was not.

Redirect examination by Mr. Stanchfield:

Q. Were you present, Mr. Gerber, at any proceedings of the Socialist Party at which Miss Buhay was expelled? A. That whole branch was expelled.

Q. Were you present? A. I was.

Q. Where did it occur? A. At the meeting of the Executive Committee of the County Organization.

Q. Of the county of New York? A. Of New York.

Q. And regular proceedings were had looking to the expulsion of that branch? A. The Executive Committee was definitely instructed to expel all branches that were then affiliated with what was then known as the Left Wing, and to reorganize them.

Q. That is what you refer to when you speak of this expulsion? A. Exactly.

Q. Do you know when that was? A. I do not know the exact date, but it was the early part of April.

Q. Of 1919? A. 1919.

Q. I hand you a Manifesto of the Socialist Party, issued by the Socialist Party of New York county, according to the printed matter on the back? A. That is the same as the one you had before.

Q. I ask you whether that is the Manifesto circulated in the county of New York? A. Yes, sir.

Mr. Stanchfield.— I offer that in evidence.

(The Manifesto was received and marked No. 35 in Evidence of this date.)

By Mr. Stedman:

Q. Was there any unification of activity after the Convention,

that you know of, between the National or Socialist Parties, and the Left Wing? A. No.

Q. When you refer to the Left Wing you refer to that portion of the membership in the Socialist Party which became the Communist Party and the Communist Labor Party, do you not? A. Yes, sir.

Q. By the convention, you are referring to the Chicago Convention? A. The Chicago Convention.

By the Chairman:

Q. Was that true that your party broke up into these fragments about that time all over the country? A. Yes, sir.

Q. The Left Wingers went with the others? A. Yes, sir. In New York we put them out some time in April.

By Mr. Stedman:

Q. And the entire Michigan movement was expelled, was it not? A. Expelled in May.

By Mr. Stanchfield:

Q. Mr. Gerber, I call you attention —

Mr. Stedman.— Mr. Chairman, were you asking about the difference between the Communist and the Communist Labor Parties, whether they were separate?

The Chairman.— Yes, sir.

Mr. Stedman.— Yes, they were different, they broke in three.

By Mr. Stanchfield:

Q. I call your attention to a copy of The Call for September 22, 1919, you having stated in a general way that was the organ of the party, and I ask you whether you are familiar with the article that appears on the editorial page of the New York Call written by Morris Hillquit? A. Yes, sir.

Mr. Stanchfield.— I offer that in evidence.

The Chairman.— It will be received.

(Same received and marked Exhibit No. 36 in evidence of this date.)

The Witness.— This is not an editorial; it is an article written by Morris Hillquit expressing his ideas.

Mr. Stedman.— I object to it on the ground that the defendants here are not proprietors of the newspaper, that the party is not dictating the policy of the paper, that the paper is not in control of the committee of the party, but of an independent organization, that these defendants having no control over news items that appear in articles or private contributions could not be responsible for them.

The Chairman.— I understand that; it appears in the evidence.

Mr. Stanchfield.— (Reading): "We Are All Socialists. Split need not weaken the movement."—

Mr. Stedman.— Please — the date?

The Chairman.— Whose article is that?

Mr. Stanchfield.— Morris Hillquit,— under September 22, 1919.

"WE ARE ALL SOCIALISTS"

*Split Need not Weaken the Movement — Let us Waste No More
Time in Quarreling, but Throw Our Whole Strength
into the Fight on Capitalism*

BY MORRIS HILLQUIT

"The split in the ranks of American Socialism raises an interesting question of policy. What shall be the attitude of the Socialist party toward the newly formed 'Communist' organization?

"Any attempted solution of the problem must take into account the following fundamental facts:

"First.— The division was not created arbitrarily and deliberately by the recent convention in Chicago. It had become an accomplished and irrevocable fact many months ago, and the Chicago gatherings did nothing more than

recognize the fact and give the divergent movements concrete form and expression.

"Second.—The division was not brought about by the differences on vital questions of principles. It arose over disputes on methods and policy, and even within that limited sphere it was largely one of emphasis rather than fundamentals. The division within the ranks of American Socialism is an echo, but by no means a reproduction of the Socialist movement in Europe.

"Third.—The separation of the Socialist party into three organizations need not necessarily mean a weakening of the Socialists even though in a moment of destructive enthusiasm they have chosen to discard the name that stands for so much in the history of the modern world. They are wrong in their estimate of American conditions, their theoretical conclusions and practical methods, but they have not deserted to the enemy. The bulk of their following is still good Socialist material, and when the hour of the real Socialist fight strikes in this country, we may find them again in our ranks.

"In the meanwhile, and for some time to come, the lines of separation will undoubtedly remain rigid, and the natural temptation for the Comrades in the different camps will be to exaggerate and to aggravate the differences.

"The quarrels of political step-brothers are always more violent than those of political strangers. It is to be hoped that the Socialist party at least will effectively resist the temptation, for nothing could be more ruinous to the Socialist movement than frittering away its energies and resources on internecine strife.

"I am led to make these observations, because of certain symptoms of aggressive hostility that seem to manifest themselves in our ranks. I have particularly in view the practice of airing grievances and making accusations against the Left Wing in the capitalist press.

"This is a serious infraction of Socialist ethics and decency. Our quarrel is a family quarrel and has no room in the columns of the capitalist papers, where it can only give joy and comfort to the common enemy. The unpardonable offense of the Simons-Russell-Spargo crowd was not so much their 'social-patriotic' stand during the war, as the

fact that they rushed into the anti-Socialist press maliciously denouncing their former Comrades as pro-German and deliberately adding fuel to the sinister flame of mob violence and government and persecution directed against the Socialist movement.

"We must carefully avoid even the semblance of similar misconduct.

"We have had our split. It was unfortunate but unavoidable, and now we are through with it. The legitimate constructive work of the Socialist movement is before us. Let us give it all of our time, energies and resources. Let us center our whole fight upon capitalism, and let us hope our Communist brethren will go and do likewise."

Mr. Stanchfield.—Is Mayor Lunn of Schenectady in the room?

GEORGE R. LUNN, called and sworn as a witness, testified as follows:

Direct examination by Mr. Stanchfield:

Q. Mr. Lunn, where do you reside? A. Schenectady, N. Y.

Q. And what is your occupation? A. Mayor of the city.

Q. When were you last elected mayor of Schenectady?

A. The fall elections, last year, 1919.

Q. Have you also been a member of Congress? A. I have.

Q. From when to when? A. Taking my seat March, 1917. My term expired 1919, March.

Q. Now, were you at one time a member of the Socialist party? A. I was.

Q. About when, Mr. Mayor? A. I think it was in the latter part of 1910 or 1911 that I joined the party.

Q. And were you nominated for mayor of Schenectady on the Socialist party ticket in the summer of 1911? A. I was.

Q. Now, at that time were you elected? A. I was.

Q. There was quite a strenuous campaign, if I recall right, in the newspaper publications, was there not? A. If I recall it, it was very strenuous.

Q. Now, prior to the time of your election as mayor, had you become a regularly affiliated member of the Socialist party? A. I had.

Q. Now, do you recollect at the time of that election who were looked upon as the leaders of the Socialist party in Schenectady?

A. Do you mean the names of those who were supposed to be leaders?

Q. Yes. A. I recall two or three of them that were the leaders.

Q. I am not curious about their names, unless counsel upon the other side desire them, but you did know who the men were that claimed to be the leaders of the movement? A. I did.

Q. Now, shortly before the election came off for the mayoralty in 1911, did these parties come to you with any document or paper that they desired you to sign? A. On the night before election in 1911, about 11 o'clock, they, for the first time, presented a blank resignation, which aroused my ire, but I was either to sign it or there would be a squabble next day. I considered it illegal, but, nevertheless, I did sign it in 1911, once and only.

Q. Now, do you recollect the names of the men that brought this blank resignation to you? A. I do.

Q. Who were they? A. Mr. Charles Noonan; Mr. Russell Hunt.

Q. And that document, at that time, you say you signed? A. Yes, sir.

Q. Do you recollect the general phraseology of it, Mr. Lunn? A. I do not, except that the import was that unless the mandates of the party were carried out, that the resignation could be sent in to the common council. I have forgotten the detail.

Q. I call your attention, Mr. Mayor, to a blank form of resignation, which appears in Exhibit 2, which has been offered in evidence upon this hearing, and ask you to read it and inform us as to whether or not it is in substance the form of the resignation that was presented to you for signature and which you say you did sign? A. Either the exact form or in substance this as submitted.

Mr. Stanchfield.—Do the Committee desire me to read it, or is it fresh in your minds?

The Chairman.—I think you had better put it in the record right there.

Mr. Stanchfield (reading). "Section 2. Recognizing the Socialist party as a purely democratic organization in which the

source of and seat of all power lies in the dues-paying membership, as an elected or appointed official of the party, it shall be my duty to ascertain and abide by the wish of the majority of my local or political subdivision. To the end that my official acts may at all times be under the direction and control of the party membership I hereby sign and place in the hands of Local to which I may be elected (or appointed) such resignation to become effective when the Local shall so vote. I sign this resignation voluntarily as a condition of receiving such nomination or appointment, and pledge my honor as a man, a Socialist, to abide by it."

Q. How long did you hold office, Mr. Lunn, as Mayor? A. For the two-year term of 1912 and '13.

Q. Were you again renominated for Mayor? A. I was renominated in 1913.

Q. Now, at the time of that campaign did you again sign a resignation? A. I did not.

Q. You were not elected that year, were you? A. I was not elected.

Q. Were you again renominated for Mayor? A. In 1915.

Q. Now, at that time did you come out with any public statement in regard to your position as being bound by any constitution that required you to place in the hands of any committee your resignation? A. May I make a statement rather than answer yes or no?

Q. I prefer that you should. I am only addressing you that question in order to call your attention to the information that I desire, and I prefer that you state it in your own way. A. I considered this resignation in 1914, or this blank, was more or less of child's play, but during the administration of 1912 and '13 there was no serious division of opinion on any matters, but I made up my mind I never would do it again, so that in 1912 I refused to sign and no fuss was made of it. I was defeated, and I felt that I was defeated in large measure because of that fact, that the people knew that under the Socialist Party an elected official was supposed to be under the control of the local rather than responsive direct to the whole population, as he should be. In 1915, in order that there might be no possible misunderstanding, before I was nominated I came out with a clear statement and repudiated that section of the constitution, that I would not stand for it, and that I wanted them to know it before they nominated me and not accuse me of receiving a nomination under a

misapprehension. This caused a great furore. Members of the State Committee came to Schenectady endeavoring to heal up the differences. They could not be healed up, and on the night that I received, in the unofficial convention, the nomination for Mayor, I stated before the nomination is made understand thoroughly that I will be Mayor; I will not be dictated to by the Local; I will not acknowledge that part of the constitution, and so forth and so on. With bitter opposition I was, nevertheless, nominated and elected, but in spite of the fact that I had repudiated that particular part of the constitution, as soon as I came to make up my appointments there was evidently the determination to influence me far more than I was willing to be influenced. I retained as superintendent of water a very efficient engineer, who was a Republican. This was very antagonistic to the Socialist Local. I appointed a Socialist who was enrolled but not a member of the dues-paying organization. To make a long story short, this was violently opposed and they threatened discipline, and I don't know whether they were ordered to discipline me from New York, but they made charges against me as violating the Constitution, violating that part which I had repudiated before nomination. That being done, I was called to New York, trying to harmonize things. The State Committee were willing to pass over the appointment of the engineer to the water department, but they wanted me to discharge an enrolled Socialist who was not a dues-paying member for the reason that the Local claimed that he had voted for other than the Socialist nominees in certain particulars; that he had not voted for the Socialist candidate for Assembly and they wanted him discharged. I refused to discharge him and the discipline was attempted in the way of throwing me out of the organization, but they could not get the necessary two-thirds vote, so the New York organization, in order to discipline me, took away the charter from Local Schenectady and really fired the whole Schenectady contingent out and reorganized with those that would abide by the rules as regards control.

By the Chairman:

Q. May I ask who Russell Hunt and this other gentleman you referred to were — they were the executive committee of the Local? A. No, they were simply prominent members, leaders, and they were the ones that suggested after 11 o'clock at night, that I ought to sign that. I signed it and that was the last I heard of it.

- Q. You mean leaders of the Socialist organization? A. Yes.
- Q. There was an executive committee of that organization that had control of it? A. There was, but I have forgotten the names.
- Q. That is composed of the dues-paying members? A. The executive committee was elected by the dues-paying members.

By Mr. Stedman:

- Q. And the executive committee was the committee that called on you to discuss the administration of the city? A. Yes.
- Q. When you were elected, you employed men from outside of the city to take positions there? A. I did.
- Q. One of them was Mr. John Cole? A. Yes. He was from Scotia, across the river.
- Q. He was employed as what? A. Commissioner of Public Safety.
- Q. You did not find any particular opposition on that? A. None whatever.
- Q. He was not a member of the party? A. He was a member of the party.
- Q. Frank Cooper, was he a member of the party? A. He was not. He was a Democrat.
- Q. There was no particular objection to that appointment, was there? A. None whatever.
- Q. And then there was Thomas Woolley, city engineer; he was not a Socialist? A. He was not a Socialist.
- Q. He was first appointed when? A. Appointed in 1911 — January, 1912.
- Q. Was there any particular objection to his appointment? A. There was none.
- Q. Then there was Walter Kruse — what position was he appointed to? A. Commissioner of Charities.
- Q. He was not a Socialist? A. He was.
- Q. Was he a Socialist? A. Yes.
- Q. Was there any disagreement over his appointment? A. None whatever.
- Q. Was he a fairly good man in his position? A. Yes.
- Q. He was kept right along? A. Yes.
- Q. You appointed a Commissioner of Public Works, Charles Mullen? A. I did.
- Q. He was an expert, or supposed to be, on paving? A. He was.

Q. And you secured him from — A. Milwaukee.

Q. Was there any opposition to his appointment in any way?

A. No opposition.

Q. The opposition, when it came to appointments, centered against one man, did it not? A. This opposition was in 1915. There was no opposition in 1911.

Q. In 1911-12 there was no opposition for the physician? A. No.

Q. Frank Krause was the candidate? A. William Fause.

Q. And that is equally true of Dr. Towne? A. Yes.

Q. And the party did not act in the case of Dr. Towne, did they? A. His appointment was during the 1912-13 administration, after the resignation, through illness, of Dr. Fause. They approved his appointment.

Q. The meetings were held openly? A. Openly.

Q. The public could attend? A. The public could attend, yes.

Q. And you felt as a legal proposition, of course, the resignation had no legal, binding effect? A. No.

Q. You knew that? A. Yes.

Q. Now, there was some trouble, was there, over track inspector? A. There was.

Q. His name was George West? A. No.

Q. What was his name. A. I did not allow George West to trouble me. The track inspector was a man by the name of Bedford. I do not recall his first name.

Q. When was he appointed? A. January, 1916.

Q. Well, there was opposition to the continuation of that man, was there not? A. There was.

Q. And the position asserted was that he had been hostile to labor movement and been a strikebreaker, was it not? A. No.

Q. Was that statement made? A. No. He was an active union man.

Q. I am not saying what he was. I am asking what the statement was. A. The statement was not made.

Q. What was the statement against him? A. That he had opposed the Socialist candidate for the Assembly and he was not a member of the dues-paying branch.

Q. In other words, he had not stood by the party? A. No.

Q. You are serving now, I think, as a Democrat? A. I am.

Q. You are familiar, somewhat, with Democratic politics? A. I am.

Q. It does not come strange to you that a man may be removed who does not stand by the party nominees, does it? A. It depends upon the official.

Q. I am not personal; I am speaking as a matter of practice; a person who belongs to a political party is not ordinarily retained in appointive position if he is knifing some of the candidates and supporting others, is he? A. I think that is generally the case.

Q. The position of the Socialist Party in Schenectady, then, was not a rare thing in this instance; it was a general political party proposition? A. Yes, that is true.

Q. The branch cooperated with you in endeavoring to give the city an efficient administration, did it not? A. The first administration. The second administration was more antagonistic because they did not consider me a good Socialist.

Q. While you were a Socialist, and they felt so, you had the party support for an effective administration? A. If I would only admit that the local ought to have the final say.

Q. Was there any other body in the city of Schenectady that offered suggestions? A. A great many.

Q. Then the organization of the Socialists, in offering suggestions, was only in degree different from that of other organizations? A. It was different in that they claimed the right of mandate.

Q. There were other organizations that did not claim the right of mandate, but they did presume to suggest very emphatically, did they not? A. Yes.

Q. The difference in the emphasis of their suggestion was only in the fact that the Socialists claimed you as one of them? A. And as bound by the regular rules of the organization.

Q. You at no time felt that any of the suggestions were from corrupt motives in any sense, did you? A. I am quite sure they were not; they were from devotion as to their particular views, as to how it should be done; and I did not always agree with them.

Q. Well, we do not always agree in any party, do we? A. That is true.

Q. The Democrats and Republicans assisted in the administration? A. Yes, sir.

Q. You did not feel that their opinion should ostracize them from administration? A. Not for a moment.

Q. That was true with your work in the council, too, was it not? A. It was true, yes.

Q. As a Democratic Mayor you have appointed Socialists, too? A. I have not. The Socialist movement is very weak in Schenectady.

Q. You say you have not? A. No, not at this time. During the former administration I appointed some.

Q. You have a city committee and county committee there of Democrats? A. I have.

Q. And they make suggestions to you now, I suppose? A. Yes, they do.

Q. And tell you who they want? A. Yes.

Q. And they usually want Democrats? A. Yes (Laughter).

Q. And you do as you please? A. I do as I please, yes.

Q. You treat them both alike? A. Yes.

Q. Both parties? A. Yes.

Q. Have you expressed any opinion on this proceeding? A. I have. I am very much opposed to it. My antagonism to the Socialist Party is very great, but not so much that I consider that this proceeding is contrary to the fundamental constitutional provisions; and I am in sympathy with the New York State law bodies, like the New York State Bar, as well as the State. I am not always in sympathy with lawyers, but I am in this case.

Redirect-examination by Mr. Stanchfield:

Q. Mr. Mayor, how many dues-paying members were there in the last two or three years, in the Socialist Organization in Schenectady? A. I couldn't tell you evenly approximately except during 1912 and 1913 there were about 800.

Q. That were dues-paying members? A. That were dues-paying members.

Q. Out of a total voting population, Mr. Mayor, of how many? A. At that time about 14 or 15 thousand of all parties. We did not have the women voting then. Now the vote is much larger.

Q. Now, if I understand your attitude correctly, you said in response to Mr. Stedman that representatives of the Committee of the Democratic Party came to you and solicited the bestowal of patronage; that is true, is it not? A. That is true.

Q. The Socialist Party asserted the right to dictate and control your distribution of patronage, did they not? A. Yes.

Q. And that was the rock upon which you split? A. Yes.

Q. And to enable them to thoroughly control your distribution of patronage, they desired that you should sign one of these resignations in order that, if you refused to comply with their demand, they could file it and deprive you of your office? A. Well, I would say in answer to that question that I think their idea was that if they made a platform pledge that was not carried out, they would do that. I do not think they had in mind so much the patronage. I will give them credit for that.

Q. Well, not carrying out the platform, then? A. Yes.

Q. And that if you did not carry it out in the way they insisted it should be carried out, then they wanted the right to file this resignation, in order that they could use that as a basis for expelling you from the party? A. Yes.

Mr. Stanchfield.— That is all, sir.

Recross-examination by Mr. Stedman:

Q. I understood you to say that you felt that was to keep a platform pledge? A. I think it was put in there with the best of intentions.

Q. And you think it applied primarily to the platform rather than patronage? A. The idea being that the official represented the Socialist Party and that he should carry out the provisions of the Socialist Party platform, the promises and so forth.

Q. Let me call your attention to a meeting of the State Committee, at which Mr. Bodencamp was President. Do you recall whether or not, in opposition to the track inspector, it was mentioned that he was a strikebreaker? A. I do not recall that name, Bodencamp.

Q. Do you recall Bodencamp making a statement in the Committee there, to that effect, or in the central body? A. I do not recall that because this man was recommended by the Trolley Men's Union before Mr. Bedford was recommended to me by the Union, and I do not think they ever would have done it if he had been a strikebreaker.

Q. You do not recall this man making the statement in the Assembly? A. I do not recall that.

Q. You would not say it was not made, but simply that you do not recall? A. Simply that I do not recall.

Q. You attended the Rochester Convention of the Socialists, did you not? A. In what year?

Q. 1914. A. Yes, sir; I did.

Q. At that convention did you speak upon the subject and take any attitude on the constitutional provision for control of elected officials? A. I did, endeavoring to get it changed.

The Chairman.— What year was that?

The Witness.— In 1914.

The Chairman.— Was that defeated?

The Witness.— I was defeated in that proposition.

Q. Didn't you make a motion for a provision in that convention that was defeated for the control of the constitutional provision? A. I do not recall just what it was, but it was some kind of an amendment that was put through, I think.

Q. Let me call you attention to it; wasn't there a provision in the constitution — didn't you offer an amendment to it and wasn't your amendment carried? A. Well, I think it was.

Q. And that is the present constitutional provision? A. I think it was. It was a fundamental difference of opinion on the whole question.

Q. Would you say it is the one in the Constitution now? Are you clear whether the one in the Constitution now is the one that your motion was carried? A. I think it is there now.

By Mr. Stanchfield:

Q. Addressing your attention, Mr. Mayor, to the dues-paying membership of which you spoke in the year, I think 1919, as numbering approximately 800, do you know whether in the 800 were included minors? A. I think that the age is eighteen, and is not limited to citizens.

Q. I was going to say both minors and aliens? A. I remember distinctly, because in my argument against the idea of the party controlling an elected official that he was representative of the whole people — the greater democracy, as I called it, and made a great deal of fun about the sources, because of the greater democracy that I believed I was elected to serve. I made an illustration that if that were true, if it was a true principle by which elected officials could be instructed, and the meeting was called, and only 100 attended, and the instruction and amendment was passed 51 to 49, and among the 51, or the majority, was a noncitizen, it would be that an elected official was instructed

to carry out official acts by someone that even had no right to vote, and that was, to my mind, very undemocratic and an un-American method.

By Mr. Stedman:

Q. Did you have in mind at that time, Mr. Lunn, that a person who is not a citizen, or under age, is not only subject to the laws of the country, but eligible to any office, excepting where the law specifically imposes qualifications which exclude him?

A. That would be true, certainly, if he was excluded by law.

Q. Yes, he would be eligible to a great many offices in different States, in different places? A. If not a citizen I think he would be eligible for very few, if any, Mr. Stedman.

Q. You mean the State of New York, but there are places where he would be eligible. A. I do not know of other places, but I know in New York he would not be.

Q. When I speak of offices, I would say public employment. A. We are not allowed to employ aliens in the city.

Q. You can employ them for street work? A. No, not in New York.

Q. But you realize that while that may be true in your state, it would not generally prevail. The point I make is this: That persons who are under the legal age for voting, for instance, and yet for contracts, in the sense, would be eligible. Take a woman eighteen or nineteen that would be responsive to the laws of the State and of the nation that would be eligible for office, excepting where their qualifications are specifically required which exclude them. A. Yes, sir.

Q. Did you at any time find any motion, resolution or policy outlined by the vote of persons in the Branch who are not qualified electors for national or State offices which was contrary to, for instance, your policy? A. I would not be able to answer that; I do not know.

Q. You do not know of any instance where their influence stood out distinct from that of the voting members? A. No.

By Mr. Stanchfield:

Q. If I understand your position, Mr. Mayor, you do not regard it as an un-American doctrine that the Mayor, for illustration, of the City, which was the office you filled, should have his official conduct subject to the dictation of the Committee

where a vote of that Committee might be determined by the ballot of an alien or minor? A. I would say I do not think he ought to be under such dictation even if they were all citizens.

Q. But in this circumstance some were aliens and some were minors of which you speak? A. Yes, sir.

Q. Can you tell me, Mr. Mayor, about what the proportion of voters was in 1914 in the City of Schenectady, were dues-paying members, that is, of the Socialist Party? A. Well, if I remember rightly, I was elected by 7,300 votes, and the dues-paying members numbered about 800.

Mr. Stanchfield.— That is all, sir; I am very much obliged to you.

By The Chairman:

Q. Was there any request made of you or to you by the Democratic Organization to file a resignation with them? A. No, it was not, and I do not think they would have the foolhardiness or hardihood to try it.

Q. That is, as I understand the law now in this State, they cannot employ on public works an alien? A. We cannot.

By Mr. Stedman:

Q. You understand that the moral obligation to the Democratic or Republican Party are quite as fast and binding as the written one in the Socialist Party, generally speaking? A. I think regardless of parties, that the moral suasion made upon the elected official is made as efficient and fast, hoping they may succeed in landing their man, and they are all alike.

Q. It is about the same, whether it is understood or whether it is signing your name, isn't it? A. (Laughter.)

By Mr. Cuvillier:

Q. The declaration of the Socialist Party that any member of Congress or of the Legislature of the State who voted any public moneys for an appropriation of the Army and Navy were to be expelled from the organization,— would you approve of that? A. I certainly do not. In 1915, I think, or 1914, was the last time I attended the National Committee at Chicago. Mr. Sted-

man will recall this. A resolution was brought in, that any member of Congress — I think Mr. London was then a member — should not vote for an appropriation for the Navy or Army, and I led, with others, an opposition to the resolution very strenuously, and asked if they meant that we should let the Navy deteriorate and the Army go to pieces. There were some answers that were not very pointed to that. I made a speech against the resolution, and one gentleman from Kentucky saw a solution of the whole matter. He said it was easy to solve. "Let us pass the resolution." Then I asked him, "Suppose we were attacked by England or Germany; should we lay down?" "Well, but," he says, "we have quick means of transportation, and we have the telegraph and telephones, and if anything like that happens, we can call the Committee together and change the resolution." (Laughter.) It was passed with nine in opposition to that resolution. I do not know the wording, but I think to be fair, and I want to be fair with them, I think the object all along was opposition to war under all conditions.

By Mr. Stedman:

Q. Now, Mr. Lunn, I probably can recall to your attention something that might clear that in a sense. Do you recall that Victor Berger believed in arming people? A. I remember he was one of the nine that was in favor of it.

Q. And in their State they regarded it as proper to make an appropriation for the State, in the State, and that he believed every man should be armed? A. Yes, sir.

Q. Freedom should be placed upon an armed people, but it should be done in the States? A. Yes, sir.

Q. Do you know whether there was carried out an appropriation in Wisconsin for an efficient militia? A. I would not answer that, I do not know.

Q. Do you recall any instances of protest in this State, or suggestion on the subject being given to Socialist representatives as long as they have been in the State Legislature? A. Not until the present proceeding.

Q. Until this proceeding here at the present time? A. Yes, sir.

Q. I mean barring the recent discovery you do not know of any? A. None whatever.

By Assemblyman Cuvillier:

Q. Mr. Mayor, you know that Mr. Meyer London, the Socialist Congressman from New York City, did vote against the war?

A. Yes, sir.

By Mr. Stedman:

Q. And you know that he did vote for an appropriation? A. Yes, sir.

Q. And you know that he was not thrown out of the Party? A. Yes, but I think, Mr. Stedman, he would have given better service down there if he had not been under the feeling that he had to go according to the dictates of his party.

Q. Of course, his party was an anti-war party? A. Yes, sir.

Q. And the others were pro-war. A. Yes, sir.

Q. And it is hard for a man to be with this side when his policy is with the other, and he is trying to keep with his party?

A. It is very difficult.

By Mr. Stanchfield:

Q. Is the form of resolution pencilled to which I call your attention the provision that was introduced in the Convention,—this is simply for the purpose of identifying it. A. Whether in the words,—but in substance absolutely that.

By Mr. Stedman:

Q. There were about 50 Republicans or Democrats who, with London, voted against that resolution? A. There were 49 men and one woman.

By Mr. Stanchfield:

Q. And the resolution to which you referred reads in substance that "We recommend that the convention instruct our elected representatives in Congress, in the State Legislatures and in local bodies to vote against all proposed appropriations or loans for military, naval and other war purposes." A. That was the one I opposed.

Q. And that resolution, notwithstanding your opposition, was carried at the convention? A. Carried with nine in opposition.

Mr. Stedman.—What year was that?

The Witness.—1915.

Mr. Stanchfield.—That is all, Mr. Mayor.

Mr. Stedman.— And your understanding was that it was really an attempt to emphasize a proposition to war?

The Witness.— Yes, all war.

Mr. Stedman.— All war.

Mr. Stanchfield.— That is all, Mr. Mayor.

The Chairman.— We are very much obliged to you, Mr. Mayor.

Mr. Stanchfield.— It is within a few minutes of the adjournment time, and we have a document to read that will take quite some time. Could we adjourn now until two or a few minutes before two?

The Chairman.— Yes, we will adjourn until two o'clock. The meeting stands adjourned until two o'clock sharp.

(Whereupon, at 12:20 P. M., the hearing was adjourned until 2 o'clock.)

AFTER RECESS

(After recess the Committee met pursuant to adjournment at 2:05 o'clock P. M.)

The Chairman.— Mr. Bloch desires to have it noted on the minutes that he dissents from the ruling of the Chair with respect to the admission in evidence of the letter referred to this morning.

Mr. Stanchfield.— Mr. Mansfield, will you be sworn?

WILLIAM K. MANSFIELD, called as a witness and sworn, testified as follows:

Direct-examination by Mr. Stanchfield:

Q. Mr. Mansfield, where do you reside? A. Waterford, Saratoga county.

Q. Have you any official relation to the Assembly of the State of New York? A. I am Journal Clerk of the Assembly.

Q. And have you been Journal Clerk during the entire month of January, 1920? A. I have.

Q. Were you Journal Clerk of the Assembly at the time when the resolution in regard to the five men under investigation here was passed and adopted? A. I was.

Q. Have you produced, in accordance with request of counsel, the original resolution and proceedings had thereon, with the result? A. I have.

Mr. Stanchfield.— I offer it in evidence.

The Chairman.— It may be received.

Mr. Stanchfield.— I am not going to take the time to read it, Mr. Chairman, because everybody is familiar with it; but I had intended originally to offer it. It is jurisdictional, and that is the reason I am putting it in.

(Papers referred to received in evidence and marked Exhibit No. 37 of this date). This exhibit reads as follows:

“Mr. Adler offered for the consideration of the House a resolution in words following:

“Whereas, Louis Waldman, August Claessens, Samuel A. DeWitt, Samuel Orr and Charles Solomon are members of the Socialist Party of America, and

“Whereas, the said Socialist Party did at its official Party Convention held at the City of Chicago, Illinois, in the month of August, 1919, declare its adherence and solidarity with the revolutionary forces of Soviet Russia, and did pledge itself and its members to the furtherance of the International Socialist Revolution, and

“Whereas, by such adherence and by such declaration made by the said Party the said Party has endorsed the principles of the Communist International now being held at Moscow, Russia, which International is pledged to the forcible and violent overthrow of all organized governments now existing, and

“Whereas, Section 5 of Article 2 of the Constitution of the Socialist Party of America provides that each member of the Socialist Party of America must subscribe to the following: ‘In all my political actions while a member of the Socialist Party, I agree to be guided by the Constitution and platform of that party,’ and

“Whereas, section 13, subdivision A of the State Constitution of the Socialist party of the State of New York provides: ‘A member may be expelled from the party, or may be suspended for a period not exceeding one year for the following offenses: (f) For failing or refusing, when elected to a public office * * * to abide and carry out

such instructions as he may have received from the dues paying party organization, or as prescribed by the State or National Constitution,' and

"Whereas, such instructions may be given by an Executive Committee made up in whole or in part of aliens or alien enemies owing allegiance to governments or organizations inimical to the interests of the United States and the people of the State of New York, and

"Whereas, the National Convention of the Socialist party of America, held at St. Louis from April 7th to about April 14th, 1917, did duly adopt resolutions that the only struggle which would justify taking up arms is the class struggle against economic exploitation and political oppression, and particularly warned 'against the snare and delusion of so-called defensive warfare,' and such resolutions further provided 'as against the false doctrines of national patriotism we uphold the ideal of international working class solidarity,' and

"Whereas, the Socialist party of America did urge its members to refrain from taking part in any way, shape or manner in the war and did affirmatively urge them to refuse to engage even in the production of munitions of war and other necessities used in the prosecution of the said war and did thereby stamp the said party and all of its members with an inimical attitude to the best interests of the United States and the State of New York, and

"Whereas, the said Louis Waldman, August Claessens, Samuel A. DeWitt, Samuel Orr and Charles Solomon, members of the Socialist party of America, having been elected upon the platform of the Socialist party of America, have thereby subscribed to its principles and its aims and purposes against the organized government of the United States and the State of New York and have been actively associated with and connected with an organization convicted of a violation of the Espionage Act of the United States; therefore, be it

"Resolved, that the said Louis Waldman, August Claessens, Samuel A. DeWitt, Samuel Orr and Charles Solomon, members of the Socialist party, be and they hereby are denied seats in this Assembly pending the determination of their qualifications and eligibility to their respective seats; and be it further

"Resolved, that the investigation of the qualifications and eligibility of the said persons to their respective seats in this Assembly be and it hereby is referred to the Committee on Judiciary of the Assembly of the State of New York, to be hereafter appointed; and that the said Congress be empowered to adopt such rules of procedure as in its judgment it deems proper, and that said committee be further empowered to subpoena and examine witnesses and documentary evidence, and to report to this body its determinations as to the qualifications and eligibility of the said Louis Waldman, August Claessens, Samuel A. DeWitt, Samuel Orr and Charles Solomon and each of them respectively to a seat in this Assembly.

"Mr. Speaker put the question whether the House would agree to said resolution and it was determined in the affirmative, a majority of all the members elected to the Assembly voting in favor thereof, three-fifths being present:

THOSE WHO VOTED IN THE AFFIRMATIVE

Adler	Cuvillier	Hausner	McGinnies	Slacer
Ames, D. H.	Damico	Hawkins	McKee	Smith C C
Ames, H. L.	Davies	Healy	McLoughlin J J	Smith M L
Amos	Dickstein	Henderson	McWhinney	Smith O J
Baum	Dimin	Hunter	Mead	Soule
Beasley	Dobson F	Hutchinson	Miller	Steinberg
Betta	Dobson G A	Jacobs	Moore	Stitt
Blakely	Doherty	Jeffrey	Morrissey	Sweet
Bloch	Donohoe	Jenks	Moss	Tallett
Blodgett	Donohue	Jesse	Mullen	Taylor
Bloomfield	Downs	Judson	Neary	Thayer
Bly	Duke	Kelly	Norton	Trahan
Booth	Easton	Kenyon	Parker	Tyler
Bourke	Everett	Kiernan	Patrzykowski	Ullman
Brady	Fearon	Lattin	Peck	Van Wagenen J
Brundage	Fenner	Lee	Pellet	VanWagenenSB
Burchill	Forbell	Leininger	Pette	Wallace
Campbell	Fox	Lentol	Reilly	Walrath
Carroll, J. T.	Gage	Lindsay	Reynaud	Webb
Carroll, W. G.	Gardner	Long	Rice	Wells
Caulfield	Gempler	Lord	Richford	Westall
Chamberlin	Gillette E V	Lown	Roosevelt	Wheelock
Cheney	Gillett R H	MacFarland	Ross	Whitcomb
Cole	Griffith	Machold	Rowe	Williams
Cosgrove	Hager	Martin	Schwab	Wilson
Cowee	Halpern	McArdle	Seaker	Wiswall
Cross	Harrington	McCue	Seelbach	Witter
Crowley	Harris	McDonald	Simpson	Zimmerman

THOSE WHO VOTED IN THE NEGATIVE

Claessens	Evans	McLoughlin	Orr	Solomon
deWitt				

Ayes 140

Noes 6

Mr. Stanchfield.— Is Mayor Lunn in the room?

Mr. Berger.— He is not, but he will be here shortly.

Mr. Sutherland.— Mr. Chairman, we desire to read at this time from the record of the proceedings of the Joint Legislative Committee, called the "Lusk Committee," a portion of the testimony of Mr. Martens, a witness who is not now within the jurisdiction of this court, and therefore could not be produced.

The testimony, we submit, should be received for various reasons, if I may state briefly what our position is before it is read. This testimony is part of the records of this House. It is part of the proceedings of the Joint Legislative Committee of the Legislature of the State of which this Committee is a functioning part, taken under oath before a Committee, of which the chairman of this Committee is a member.

The witness who was examined was not a casual onlooker, but represented himself to be the accredited representative here of the Soviet Government in Russia. Therefore, what he says has a great significance on account of the importance of his utterances and the relation which he sustains to the situation in Russia, and his appearance here, we think, the Committee in the public interest should receive his statement made in the manner in which it was given.

Now, as to bearing upon the acceptability of this statement I desire to call your Honor's attention to the form of the resolution or rules of procedure which have been adopted, not withdrawing in any way whatever our statement that this is receivable in evidence, because it is part of the proceedings of the very Legislature of which this Committee is a part. If we were here in the first instance before a court, not being a part of the Legislature at all, and this were offered in evidence, the question might arise as to whether it is hearsay, but in this body, before this Committee, we have a very different situation. Now, the rules of procedure announced by the chairman are that the rules of the Supreme Court shall govern, except that the chairman of the Committee may, in his discretion, receive evidence which appears to be sufficiently important to justify that action.

Now, I wish to call the Committee's attention to the rulings of the Court of Impeachment on the Sulzer trial. The rules adopted by that Court of Impeachment were that the rules as to the reception and rejection of evidence which obtained in the Supreme Court should govern their deliberations. There was no clause

connected with those rules such as you have here giving the chairman or the court a wider latitude, and nevertheless, although they were proceeding under this narrow rule, a narrower rule than you have here, they did receive evidence which the court itself said would probably not have been accepted upon the trial of an action. Judge Werner, one of the Court of Appeals, sitting as a member of the Court of Impeachment, said in reference to a certain piece of evidence which was offered against the Governor, that if he were holding a trial in a court, he would probably reject the testimony, but that in a matter of such supreme public importance as was then before the Court of Impeachment, and in view of the fact that the rules of evidence were in general repressive and negative in their nature, he thought that because of the vital public importance of the matter the public should not be deprived of the benefit of that testimony, and voted to receive it, and the Court of Impeachment voted to receive that testimony.

Now, for all of these reasons, in the public interest, sir, and in order that this Committee may get hold of the actual fact as to the relation between the parties operating here in America and the parties operating in Russia under this entente and reciprocal relation, whatever it may be, we ask to read this testimony.

Mr. Stedman.— If the Chairman please, the public has been able to derive all the benefit that would be possible by the disclosure of the information which Mr. Martens was able to give in the examination which was made and the testimony given in the proceedings referred to.

Duplicating that evidence in this case does not give the public any additional information. It can be relevant, if at all, only in the charge against the Assemblymen on trial here and for the purpose only of disclosing the conduct on their part which disqualifies them as Assemblymen.

The public's desire for information is entirely different in an investigation such as that conducted by the Lusk Committee, where it consists of a general fishing expedition to try and ferret out the deep secrets of invisible empires, but it has no application to a case of this kind.

They propose here to introduce the evidence of a witness. No agreement to take the deposition of a man. No cross-examination possible. No method of confronting the man. No effort shown to try and bring him here, which is not answered on the theory that the process from this House cannot run into the city of Washington. There is no evidence that he is not available in

New York State. No request made of him, or anyone who may know him, to bring him here. No evidence that he was a member of the party of which these persons were members. There is no theory upon which this is competent from any conceivable angle.

Think of introducing evidence of a man, attempting through that, or, I should say, a typewritten record of the testimony of a man in a proceeding to which these parties were not parties, or that these Assemblymen were parties to the investigation. They were not present; they could not cross-examine; they could not contradict; they could not modify — nothing that concerned them was an issue in the case.

In a legal proceeding counsel admits it would be highly incompetent. Equally in a trial before the Committee it is incompetent. If you wish to have the proceedings of the Committee upon an investigation travelling in every byway and bypath, there can be no objection to it, because their mission is to gather information. There are no rules of evidence, hearsay or otherwise, which apply to a proceeding of that kind. They are reaching out, and something which may appear entirely immaterial may guide them ultimately to some material fact; but that is not the case here. These men are being tried upon the theory that they have committed some act — so far as the charge is concerned, so far as the oral statement of counsel is concerned, is that they think something that is reprehensible and that disqualifies them.

Now, this evidence that counsel proposes to read has no application to these parties. Just imagine one of you gentlemen on trial, and you do not know but what it may happen in a year or two — you may be on trial here — think of introducing against you statements testified to, reducing to typewriting, in a proceeding that you are not a party to, knew nothing of, could not cross-examine, and introduce it, if you please, upon that unique notion that the public is interested in a repetition of what it has already heard. There never was urged a more preposterous proposition to bolster up a vague, indefinite fishing expedition than this — and these men on trial to their right to sit in this Assembly, and bring in a man that we cannot cross-examine. Bring in the man? Not at all. Brings in a typewritten report of what this man is supposed to have said some place and somewhere, and counsel says this man says that he is a representative of Russia — a self-serving declaration, that this is important because this man says he represents Russia, and because these per-

sons have had some dealings with him, no dealings of which are shown. A man cannot assert himself to be an agent in an ordinary suit involving a barrel of bricks and establishing agency, and whoever heard of the theory that a man establishes his position as a minister by a self-serving declaration? The declaration would not make it, but even that would not make his testimony competent.

Counsel in his argument has apologized for the statement, or for the evidence, that it was legal or competent evidence, but he asserts that the public is interested in it. If it is, I suggest that that portion of the report be printed,—that portion of the evidence of the Lusk Committee be printed and handed out to the public and it will save considerable expense without repeating it here, where it is damaging, or may be damaging to the defendants, and improper for that reason.

Mr. Sutherland.—Mr. Chairman, counsel has miscomprehended my statement with regard to the public interest. I was not then speaking of the public appetite for news. But the public interest to serve which this Committee is sitting here in this grave matter. I wish to call attention to the fact that in the proceedings before Governor Hughes to remove Mr. Ahearn from an official position in the city of New York, he received as evidence against Mr. Ahearn the testimony taken before the commissioner of accounts in the city of New York. He received that testimony as original evidence against Mr. Ahearn and gave Mr. Ahearn the opportunity to reply to it, which he did not successfully do, and Mr. Ahearn was removed by Governor Charles E. Hughes.

Mr. Stedman.—I am not familiar with that, but I assume that was probably an accounting case.

Mr. Sutherland.—It was a proceeding to remove a public official from his office for misconduct, taken before the Governor.

Mr. Stanchfield.—The Sheriff of New York county.

Mr. Sutherland.—And the evidence against him in the removal proceedings was made up by the introduction and reception by the Governor of evidence against Ahearn, taken by the Commissioner before the removal proceedings were instituted.

Mr. Stanchfield.—Mr. Chairman, let me make one suggestion to that argument before you rule. I tried to make clear to the

Committee this morning — whether I succeeded or not is another proposition — that we are investigating here the question to determine whether or not the Socialist party is advocating the overthrow of the government of this State in either of two ways: first, by parliamentary procedure; second, by violence. We are also investigating the question to determine whether or no the five men under investigation, by their acceptance of the platforms of the Socialist party; by their acceptance of the language and expressions of the manifestos of that party; by their speeches, their arguments, their votes in the Assembly Chamber, the proceedings that they took to become affiliated with, and members of, the Socialist party; whether all those facts taken together bring them within the scope of this investigation and entitle counsel for the Committee to claim in an argument that they are made fast to that procedure.

Now, let us assume — for it is the law — that during the last year or two of the activities of the Socialist Party anyone comes into this country — it makes not the slightest difference whether he is a citizen or what may be his sex, his race, his caste, his color, his creed — comes into this country and participates in that movement by his statements and by his conduct, and lends assistance to it, endeavors to aid it; he becomes thereupon a member of the combination; he adopts as a matter of law everything that has been done down to the time when he becomes a member of the organization, and is responsible for everything that occurs thereafter. Now, that is the combination rule of conspiracy.

Now, let us take this so-called Ambassador Martens; in answer to the argument made that there is no right here to cross-examine him. Let us suppose that Mr. Martens came to this country and became aware, through the newspaper press or through other sources, of the trend and the design and the ambitions and the hopes of the Socialist Party, and immediately affiliates himself with that party, as did Mr. Martens, and becomes a member of it, and at once starts upon a plan and a program to foster and aid every scheme and every plan, anything that he says, wherever he says it; anything that he does is admissible in evidence, whether he knows these men or ever saw them or not. It is not the hearsay rule at all. It is because, becoming part of the combination, everybody connected with it is responsible for his statements and acts. Now, instead of giving evidence before the Lusk Committee, if Martens were to have written a letter in

which he stated in the communication exactly the material that Judge Sutherland now proposes to read, and transmitted, we will say, to somebody in Russia, and the letter was intercepted in transcript, that letter would be confessedly legal evidence against everybody charged with being a party to the combination. Now, certainly this is of more dignity and of more consequence because it consists of statements made under oath before a committee which were members also of the same Legislature.

Mr. Stedman.— If the Chairman please, counsel in reply to me says that the Socialist Party is on trial for an attempt to overthrow the government of New York by parliamentary methods or by violence, which is not the charge in this case; and that these parties are charged with being members of a national conspiracy, which has manifested itself in the Socialist Party; that pursuant to that charge of conspiracy, every person who approves or aids in any part the program of the Socialist Party are parties to this conspiracy.

In other words that as the platform declares for the nationalization of railroads everyone who approves the nationalization of railroads adopts in part, therefore, in theory all of the conspiracy of the Socialist movement for instituting a cooperative commonwealth, and, as counsel contends, by force and by violence. These parties have never been tried either upon the theory of conspiracy or the charges which have been preferred against them. Upon the theory of conspiracy it would be necessary first to establish a well defined plan and purpose. After that has been established then confessions of persons who are charged would be admissible. There is no theory by which we can infer that Mr. Martens' statements before a committee — and if your Honor please, don't forget one other fact; let's assume that all that counsel wishes, that the Socialist Party was a conspiracy; that they were organized; they were filling basements with dynamite and factories with shells and business houses with guns; that they had prepared deliberately to overthrow the government by violation, you could not introduce against any man charged then with the crime evidence taken in another case to which those persons were not parties.

Does counsel mean to argue for a moment, except on the theory that everything goes, that any man in this room can be placed upon trial in the State of New York and introduce evidence of

the statement of a man on trial in California in a court proceeding, before a committee or any other tribunal where this man was not present by person or counsel, and where the man is not produced in person? Can there be any more monstrous doctrine in the world than putting a man on trial where you are deprived of the privilege of cross-examining all the testimony of the men offered against him on trial for his life, or for the privilege of a seat in a constitutional assembly, which is more sacred than life? There is no rule to support it in logic and the instance mentioned here of Mr. Ahearn where he was being investigated and present in a subordinate proceeding, or may have been, and it was used as information before the person who was judging as to the advisability of removing a man from office, which might be on little evidence or no evidence or on much evidence or little evidence, of which he was the judge is an entirely different proceeding than here.

Mr. Sutherland.— The testimony taken by the Commissioner of Accounts wasn't a trial of Ahearn. He had no authority to remove Ahearn. It was an investigation by him into Ahearn's acts and the testimony taken before him was introduced in the first instance before Governor Hughes.

Mr. Stedman.— The Lusk Committee was not an investigation of these five men.

Mr. Roe.— Mr. Chairman, may I just say a word. May I bring back this proceeding somewhere within the lines laid down in the beginning along which it was to proceed.

Rule 5 of this proceeding is: "The introduction of evidence and examination of witnesses and the conduct of the hearing shall be governed by the rules now prevailing in the Supreme Court of this State except that such other evidence and testimony that may be received," mind you — 'evidence and testimony may be received' — "as the Chairman of the Committee may in his discretion permit."

We all of us, sir, understand what discretion means as applied to a judicial officer which has the capacity in which your Honor is sitting here. It means a legal discretion. It means an adherence to legal procedure and this rule, while very properly, it does not tie this Committee down to the exact technical rule of a court of law, it substantially promises to these men when they came in here that the investigation which means so much to them shall be

conducted in conformity with legal procedure and that any discretion that is exercised in the admission of evidence which goes outside the rules of law shall be a legal discretion just as a judge sitting without a jury will be more liberal in the admission of evidence than he is where the jury is present.

Now, sir, the proposition which is presented here is one that if it is approved by this Committee takes this proceeding out of a legal or judicial character altogether. Every lawyer sitting at these tables might just as well leave. The document that is offered here is offered with this introduction, not proof even of the facts stated that it is the testimony of some man taken in another hearing, that is all. What its subject matter is, we don't know; that this man even knew these individuals under investigation here does not appear; that he is a member of their party does not appear; that he would even admit what is called testimony here, which is offered to be correct, is not affirmed. Now, sir, I say if in those circumstances, in view of those things it is to be permitted here to read that document then it is certainly superfluous to have any lawyers here.

Mr. Sutherland.— There are most frequent references through the speeches of these Assemblymen which have been proved and through the documents which have been proved, most frequent reference and allusions to the plans and programs and purposes of the Soviet government in Russia.

Now, what are those plans and purposes? Is there anyone more competent to advise you as to what those purposes and fundamental principles are than the man who represents himself and who comes with the credentials as the representative of the soviet government of Russia? He has been so recognized by their national convention and I hold in my hand a copy of their official bulletin of the proceedings of the September, 1919, convention in which they sent their fraternal greetings to Mr. Martens as a representative to this country of the Soviet government of Russia. Now if there is anybody competent to explain; if there is anybody whose word ought to go for the plans and purposes of the Soviet government in Russia so far as it has an attitude and purpose with regard to America and American forces it is this Mr. Martens. Now, there is more than that. I think before this hearing is ended we shall show that this same Martens has given to members of the Socialist party credentials to represent Soviet

Russia in America, credentials given to most distinguished representatives of the Socialist Party. We think we shall prove those things before we get through, but for present the notorious fact, which they will not deny, that Martens is the representative here of Soviet Russia, that fact should be considered as established for the purpose of admitting this testimony. If there is any doubt about it I ask leave to read to this Committee an extract from page 14 of the bulletin, the official bulletin of the Socialist Party containing the proceedings of the September, 1919, convention; the bulletin issued September 15, 1919, containing the fraternal greetings, the message which I have referred to.

Mr. Stedman.— But addressed by the convention. Are they addressed by Mr. Martens?

Mr. Sutherland.— It would seem so.

Mr. Stedman.— I am not speaking of seem so.

Mr. Sutherland.— Well, that is what the statement in print here —

Mr. Stedman.— Mr. Martens' name is in print?

Mr. Sutherland.— Comrade Martens, representative of the soviet government. Is there any other Comrade Martens who represents the Soviet government and why is he called comrade if it isn't comrade in this International Socialism? Waldman was there; Claessens was there; Solomon was there at this time, at this same convention where this thing was sent out. Comrade Trachtenberg introduced the following telegram to be sent Comrade Martens, representative of the Soviet government. (Reading): "The Socialist Party of America in National Emergency Convention assembled sends you fraternal greetings and wishes you success in your endeavors to establish friendly relations between the peoples of the United States and Soviet Russia of which you are an accredited representative. We assure you that the Socialist Party will do all in its power to rally the support of the American workers to the aid of the proletarian republic which is an inspiration to the Socialist movement of the world."

Mr. Roe.— Mr. Chairman.

The Chairman.— Just a moment. I would like to talk to the members of the Committee.

Mr. Roe.— I would like to reply to this last argument.

The Chairman.— I will hear you in just a moment.

Mr. Roe.— I would like to reply to it before you confer. I just want to say and would be glad to have said it before your consultation, the general proposition amounts to just this. I have been in a good many Republican conventions. So have the rest of you been in conventions of different parties. His proposition amounts to this, that if that convention sends a telegram of congratulation or a letter to some sort of a man, a well-known man, a public character who may be a member of the party or not, that merely because I am in convention, if that man is afterwards examined in some proceeding to which I am not a party, of which I know nothing, which relates to me in no way, then that mere fact makes that testimony or tends to make that testimony admissible against me merely because we were together in the same convention. That is the proposition they are advancing.

Mr. Stedman.— We sent a telegram to De Valera in Ireland. Are we going to be held up for that too?

Mr. Stanchfield.— We have the concluding word upon this argument if the Chairman please, and I would like to make a brief statement about the rule of conspiracy.

Mr. Stedman and Mr. Roe are both quite in error with reference to its scope. If one starts in, the thirteen lawyers upon this Committee, to investigate the various adjudications and decisions in the law books to find out the class of testimony that is admissible upon conspiracy trials, they will be very much surprised at the extent to which they go.

Now, in the first place, whenever a combination is set in motion for any purpose, be it good or be it bad, ordinarily all of the men who are parties to that combination, and particularly if it be a combination in violation of law, don't gather together and the one say to the other in the mutual and joint presence: "Now let's embark upon this scheme of procedure," that is not the way conspiracies are formed, and in the trials that occur, frequently occur in the Federal courts — I have been in one within the last two or three years where seventy-five defendants appeared at the bar of justice charged with conspiracy. Among the seventy-five men were those who had never met one another, who had never seen one another, who had never corresponded with one or the

other, and yet the letters, the declarations, the speeches, the remarks, the votes, the act, the conduct of every one of those men was admitted as legal evidence in the court of justice as against every other. It is the only way in the world in which a conspiracy can be proved, by introducing in evidence the acts, the speech, the letters and the conduct of the parties who were charged with being interested in the outcome of it.

Now, this testimony would be competent irrespective of whether or no it were taken before the Lusk Committee, irrespective of whether or no it were taken under oath. It would be competent testimony if it were remarks made by Mr. Martens upon a street corner, of an address in an assembly hall or in a letter; wherever it may have been made, this letter is just as competent as if it were produced by the Lusk Committee.

Mr. Stedman.— May I ask counsel a question?

Mr. Stanchfield.— Certainly. If an argument does not stand cross-examination, it is not very good.

Mr. Stedman.— Where there is knowledge and purpose and object; but do you contend that that is true where the person gives testimony which they must give as a witness?

Mr. Stanchfield.— I mean to say that the declarations or admissions of a man, irrespective of whether it is in the streets or in a court of justice, are admissible. It does not change the rule one way or the other.

Mr. Roe.— It is subsequent to the time you have established a conspiracy. Every lawyer knows that.

The Chairman.— I do not know but what it is advisable to read into the record the general rule I have tried to follow, without taking into consideration my right to introduce such other testimony as in my judgment, or in my discretion, may seem proper.

The Committee and Chairman and all of us appreciate — and I trust all you gentlemen appreciate — that we keep deviating from the word “investigation.” Try to confine it to trial limits. Now, we do not have to feel that way about it. It is an investigation for us to go into and examine and report as to the qualifications of these men. Of course, we have had to have some general rule to follow as near as we can. I do not know but it will

be in place for me to read into the record at this time the general rule that the Chair has tried to follow in this case. I may be in error about it, but it seems to me to be the rule that is laid down in the works on evidence, and I would like to read it into the record at this time for the benefit of the members of the Assembly who read the record, the rule as laid down by Chamberlayne on Evidence in regard to this class of cases:

“The existence of a common purpose may be innocent or otherwise, i. e., it may be for the attainment of ends and by the employment of means which the substantive law regards as permissible; or, on the other hand, may, to use Lord Denman’s epigram, be for the attainment of unlawful ends or for the attainment of unlawful ends by unlawful means. In the latter event it is commonly designated a conspiracy, either in its innocent aspect or in that of unlawful combination. The existence of a common purpose is usually established by the co-relations and mutual dependency of the acts done on distinct occasions. The fact of a conspiracy or the existence of a common purpose among several persons may be established by proofs of the acts of such persons on other occasions though the acts may have been separate by long distances and though the acts in general cover an extended length of time. In other words, where a series of acts are the manifestation of a common design or constitute a systematic plan of operation, evidence of what happened on other occasions embraced in the series will be admissible to show who did the particular act at the culmination of the series or was otherwise connected with it and the motive with which it was done. Frequently the existence of a common purpose can only be established by such proof and a comparison of the different acts, and observing the presence of a unit of design to which the several acts are intelligently adapted. Practically it is this way that the conspiracy is most frequently established in the absence of admissions or confessions.

“It is not material that certain of these intermediate acts, namely, those done between the inception of the conspiracy and its accomplishment or abandonment, should be separate criminal offenses. The evidence of such a transaction is equally admissible if such acts can reasonably be held to have been done in the performance of the common object.

“The existence of a common purpose and even of a continuous one may be shown by the use on other occasions of a similarity in detail of procedure adopted. This rule of admissibility may be so far extended as to cover inferences drawn from the use on other occasions of a device or form of trickery similar to that alleged to have been employed in the case at bar.”

Now, that is, as I understand, the rule. I may be wrong.

Now, the gentlemen in this investigation come here and they are attempting to establish a line in this investigation, which shows a connecting up with the Russian Soviet Government; and I assume that they are going to try to connect up these gentlemen with the theories and objects of the Government or its mandates in this country. I assume what they desire to read now is from Mr. Martens' testimony some facts connected with the historical situation that existed in Russia, and how Mr. Martens came to be here. I think that along those lines, considering the fact that some of the Committee told me that that was done in other cases, particularly in the Ahearn case, I am disposed to allow the gentleman to read the testimony in, but reserving to Mr. Stedman the right to object to any questions and answers, so that we may guard the interests of these gentlemen who are being examined here, as best we can; in other words, if it should come to a point where it was something that these men could not establish because they could not cross-examine, I am inclined to think that we could not hear it. In other words, we are depriving Mr. Stedman of the right to cross-examine. I think we will be able to take care of the situation as it develops. Under those conditions, I will permit you gentlemen to start in reading the evidence.

Mr. Stedman.—I want to recall Mr. Lunn for two or three questions.

The Chairman.—I wish you would note in the record now — because it has been forgotten — that the only rulings of the Chair and the admissibility of evidence that has been passed upon by the Chair, is that Mr. Stedman reserves all his rights and takes all his exceptions for future use.

Mr. Stedman.—I have one or two questions which I want to ask Mr. Lunn.

GEORGE R. LUNN, recalled for further cross-examination, testified as follows:

Cross-examination continued by Mr. Stedman:

Q. Mr. Lunn, by whom were you nominated the second time?

A. By the Socialist party.

Q. Referring to the pledge in the Constitution of the Socialist party and its influence over members, is it not a fact that that was adopted to try to establish faith in the voting that the Socialists would carry out the principles of their party, in answer to the argument which is usually made: "How do you know and what assurance have you that your men in office will not act the same as the others?" A. I cannot answer why it was put in.

Q. As you participated in the Convention I did not know but what you knew of its origin? A. No. I do not.

Q. Now, in political appointments to office, have you found the Club to be any softer in the hands of Democrats, or about the same?

Mr. Stanchfield.— I object to that.

The Chairman.— I will let him answer.

The Witness.— I am going to say that our Government is such that there are always friends not elected to office who are very interested in having other friends brought to the attention of an elected officer as most competent, and so forth, and they bring all the pressure they can to bear upon an elected official; and if he is the right kind of an elected official he will use his own judgment in the interests of the whole people.

The Chairman.— The Chair might add to that, that the members of the Committee are quite familiar with that idea (laughter).

Mr. Stedman.—An eruption in another invisible empire.

By Mr. Stedman:

Q. Mr. Lunn, you do not know of the party expelling any persons because of their disagreement with the war attitude of the party, do you? I am not speaking — A. I know nothing of the activities of the Socialist party in the last four years, since I have been a Democrat. I know very little of their activities.

Q. While you were in it they were not advocating force or carrying out a program of that kind? A. No.

Mr. Stedman.— That is all, thank you.

By Mr. Stanchfield:

Q. Mr. Lunn, before you leave, will you state in your own way, unled by questions of counsel as to just the origin of your severance of your relations with the Socialist party? A. Well, the origin, I think, Mr. Counsel, was traced almost at the beginning because of my divergence in the interpretation of what constituted the principles. I was at variance and I was accused of not being a Socialist. I thought I was until certain of the principles were interpreted, and then I thought I was not; but the first great struggle came in the first administration when an attempt was made to instruct the mayor on a very silly proposition. I was able by talk and conference to keep them from taking that action which would have been very foolish, and unfair and illegal. Then, when I insisted in using my best judgment in making appointments, but very glad to have anyone bring suggestions, I made the appointment on the basis of efficiency regardless of whether they were Socialist, Republicans or Democrats. It is the same way now. If I could not find an efficient Democrat. I would rather have an efficient Democrat in one particular position,— as I have in this last administration — appointed a Republican. So that when they indicated to absolutely dictate my appointments and insist that I discharge,— I discharge the member appointed, or dismiss him, I refused absolutely. That of course led to my expulsion by means of having the State committee expel the whole Schenectady Socialist local and reorganize it.

By the Chairman:

Q. The situation there now is that the Socialist party is not any Socialist party in Schenectady? A. Oh, yes, but very small and very weak. Out of an enrollment this year, out of 27,000 they had 879.

Mr. Sutherland.— I commence to read, Mr. Chairman, from Volume III, of the record, at page 1076. This is not the commencement of Mr. Martens' testimony. There is another volume and I am not able to put my hand on the examination at the

present moment, but I shall be very glad to bring that here so the Committee may have the benefit of his entire testimony.

Mr. Stedman.— May we have the date and place where it was taken?

Mr. Sutherland.— This was at the City Hall in the city of New York on November 17, 1919. I read from page 1049. This is the commencement of his testimony. It is right here.

Mr. Stedman.— We understand now that you are reading this as evidence of the witness, so that we can object to questions and move to strike out?

The Chairman.— Certainly. Reserving to Mr. Stedman the right to object.

Mr. Sutherland.— Certainly; I will try to keep within your Honor's intention entirely.

(Reading):

"LUDWIG C. A. K. MARTENS, called as a witness, being first duly sworn, testified as follows:

"Examined by Mr. Berger:

"Q. What is your full name? A. Ludwig Christian Alexander K. Martens.

"Q. Where do you live, Mr. Martens? A. 572 Ocean avenue, Brooklyn.

"Q. And what is your office address, Mr. Martens? A. 110 West Fortieth street.

"Q. And your occupation? A. I am representing the Russian Socialist Soviet Republic.

"Q. Where were you born? A. In Bachmut, Russia.

"Q. What is your father's name? A. Karl Martens.

"Q. Where was he born? A. In Germany.

"Q. When did you leave Bachmut, Russia? A. When I left Russia?

"Q. Yes; Bachmut, Russia? A. I was two years old.

"Q. Where did you go from there? A. To Kursk."

Mr. Sutherland.— K i r s k — K i r s k, I think that is what it is. (Continuing reading):

"Q. Kursk, Russia? A. Yes, sir.

"Q. And how old were you when you left Kursk, Russia? A. Seventeen years old.

"Q. What was your occupation at that time? A. I just finished gymnasium at that time.

"Q. What is your mother's name? A. Christiana.

"Q. Where was she born? A. In Lubek, Germany.

"Q. Were you in Petrograd at one time? A. Yes, sir.

"Q. You lived there for a number of years? A. Yes, sir.

"Q. Until when? A. Until 1896.

"Q. And how long were you in Petrograd? A. Five years.

"Q. Did you receive any technical instruction of any kind while in Petrograd? A. Yes, sir.

"Q. What kind? A. Technological Institute.

"Q. And what degree did you receive in that institute? A. Engineer.

"Q. What student organizations were you identified with while you were studying in Petrograd? A. As a student I belonged to an organization for studying Marxian theories.

"Q. Did you devote considerable time to a study of the Marxian theories while you were there as a student? A. Yes, sir.

"Q. Will you give us the name of the original organizations you were connected with in Russia at that time? A. I was connected with the Union for Liberation of Russian Working Class.

"Q. Any others? A. No others, no.

"Q. What action did the authorities take towards you with regard to your connection with this organization or any other organization? A. I was arrested in 1896 by the Russian authorities.

"Q. What was the outcome of that arrest? A. I was deported from Russia.

"Q. To where? A. To Germany.

"Q. To what part of Germany? A. Berlin.

"Q. Did you meet Nicolai Lenine, who is now Premier of Russia, at that time? A. Yes, sir.

"Q. What was your connection with him? A. We belonged to the same organization.

"Q. Was your association with him of an intimate character? A. More or less.

"Q. Quite intimate? A. Yes, I knew him.

"Q. What year was that you were deported to Germany?
A. 1896 — no, I beg pardon. 1896 I was arrested; in 1899 I was deported to Germany.

"Q. Were you confined in prison as a result of your activities there for any time? A. Yes, sir.

"Q. For how long a time? A. Three years.

"Q. What happened at the end of those three years? A. They deported me to Germany.

"Q. That was the time you were deported? A. Yes, sir.

"Q. What year was that in? A. 1899.

"Q. Have you been in Russia since then? A. Yes, sir.

"Q. When were you there? A. During the first revolution, in 1905 and '06.

"Q. On what particular charge, what specific charge were you confined in prison for three years? A. The specific charge was —

"Q. What was the charge or indictment or information? A. Propaganda directed against the Czar's government.

"Q. Wasn't it in connection with fomenting strikes? A. No. Not exactly; it was during the coronation of Czar Nicholas the Second, we made political propaganda amongst working people in Russia, and there was a big strike at the same time, so we took part in the strike agitation, too.

"Q. What did Nicolai Lenine have to do with fomenting those strikes? A. Nicolai Lenine was arrested.

"Q. What disposition was made of him? A. Sent to Siberia.

"Q. How long did he stay in Siberia? A. I think for about five years.

"By Mr. Berger:

"Q. Who succeeded Lenine in the leadership of the particular group of which he was the head after his arrest? A. Well, the movement was not concentrated at that time. So, that practically every town had its organization. There was no permanent leader at the time.

"Q. Isn't it a fact that you were one of the leaders that succeeded Lenine in your particular locality? A. No.

"Q. It is not? A. No."

Mr. Sutherland.—I think, Mr. Chairman, there is a good deal of this which is of no special importance.

The Chairman.— The Chair is very familiar with it because it was taken before me as vice-chairman of the Lusk Committee. That testimony was elicited two or three days before me and the reading of it is a waste of time here.

Mr. Sutherland.— There are certain specific things we would like to call attention to.

The Chairman.— I am quite familiar with that testimony.

Mr. Sutherland.— We don't want anybody to say we are picking out certain things that bear one inference and leaving out other things that infer another. To avoid that we stood up here yesterday and wearied the Committee reading a long article because we did not want to stand under any such imputation. Now, for the same reason we will read all of this into the record, Mr. Chairman, if you think it necessary, but we only desire to call attention to certain specific things.

Mr. Stedman.— We ask that the entire testimony be read. The idea of taking a witness on the stand and saying, "Were you going north," and he says, "Going north by south," and you cut out the south and change his direction.

Mr. Sutherland.— That is just the imputation we want to avoid.

Mr. Stedman.— Then read all the testimony and avoid it.

Mr. Block.— These men against whom this testimony is introduced are entitled to hear all of this.

Mr. Stedman.— It may be something in our favor.

The Chairman.— Very likely.

Mr. Block.— We have never heard this before and when we tried to gain admission to the City Hall where this testimony was taken we couldn't get in. It was taken behind locked doors and we couldn't get in. We are entitled to have it all now.

The Chairman.— You certainly shall have it. A member of the Committee has suggested, Mr. Block, that you had the benefit of a duly authorized reporter of the Call present during the entire testimony and he took such portions of it as he wished.

Attorney-General Newton.— The press, the man representing the New York Call, was furnished copies of all of this testimony and the counsel had access to it. Now, what is he trying to do?

The Chairman.— He knows; we don't.

Attorney-General Newton.— So do I know.

Mr. Block.— And this isn't the first time we have told you, Mr. Newton.

Attorney-General Newton.— I don't need to be told but once.

Mr. Stedman.— Mr. Chairman, I am insisting simply upon a legal proposition.

Mr. Sutherland.— We are willing to read it. There is nothing for the Committee to omit, but it is a physical effort for the Committee to sit and hear it all.

The Chairman.— If Mr. Stedman desires to have it all read, it shall be read into the record. And with the further understanding that now it is to be read into the record, if Mr. Stedman desires to have Mr. Martens come here to contradict it, you have that privilege.

Mr. Sutherland.— There will be considerable reading. I wonder if it is possible to be furnished here with something like a reading desk, about desk high.

(By direction of the Chairman, such a reading desk was brought in.)

Mr. Sutherland.—(Continuing reading):

“Q. What town in Germany did you enter after your deportation from Russia succeeding your release? A. Berlin.

Q. I think you mentioned the year before, but let us have it again, please. A. 1899.

“Q. What did you do when you entered Germany, Berlin? A. I was made a soldier.

“Q. A soldier in the German army? A. Yes, sir.

“Q. How long did you serve in the German army. A. Two years.

“Q. In what capacity? A. A common soldier.

“Q. When you entered Germany, were you apprehended by the German military authorities? A. Yes, sir.

"Q. What happened immediately thereafter? A. I had to enter the German army.

"Q. On what authority did the German military authorities compel you to serve in the German army? A. On the theory that I am a German; because my father was a German citizen.

"Q. How old were you at that time? A. I was about 26.

"Q. What branch of the service did you serve in? A. The engineers.

"Q. Were you ever subject to court martial in the German army? A. What is that?

"Q. Were you ever subject to court martial in the German army? A. No, sir; I was not.

"Q. When did you leave the German military service? A. 1901.

"Q. Have you at this time either about you or elsewhere available any of your military papers? A. At this time?

"Q. Yes. A. No, sir.

"Q. You have not? A. No, sir; I have not.

"Q. What became of them? A. I lost them somewhere.

"Q. Where were you stationed in Germany? A. In Berlin.

"Q. In Berlin? A. Yes, sir.

"Q. Now, when you received your discharge from the German army, what did you do? A. I entered the Polytechnic Institute in Charlottenberg, Germany.

"Q. The Polytechnic Institute in Charlottenberg? A. Yes, sir.

"Q. How long were you there? A. I think over one year.

"Q. Were you engaged in any revolutionary activity in Germany? A. Yes, I was.

"Q. Will you tell us fully and in detail concerning this matter? A. I was engaged in the revolutionary activities as far as it concerned Russia. The German movement did not interest me. I was always in communication with Russian revolutionary organizations.

"Q. Who co-operated with you in these activities directed towards Russia? A. Russian organizations which were in Berlin and some other parts of Germany.

"Q. And you were in constant communication with revolutionaries in Russia while you were in Germany? A. Yes, I was.

"Q. And could you send propaganda from Germany into Russia? A. Yes.

"Q. Covering a period of how many years. A. Five years.

"Q. And who prepared this propaganda? A. It was prepared partly in Switzerland and partly in France.

"Q. But you, yourself, knew at all times the contents of the various documents and papers that you sent from Germany into Russia, and you knew it was revolutionary propaganda? A. Yes, sir.

"Q. After you left Charlottenberg, where did you go, Mr. Martens? A. I went to Hamburg.

"Q. In what year was that? A. In 1903. I stayed in Hamburg up until 1905.

"Q. Did you still continue your revolutionary activities in Hamburg? A. Yes, sir.

"Q. And did you still continue sending propaganda from Hamburg into Russia? A. Yes, sir.

"Q. Where was Lenine at that time? A. In Brooklyn.

"Q. Were you in communication with him? A. Yes, sir.

"Q. Were you at that time in contact and communication with Brownstein, now known as Leon Trotzky? A. Yes, I was.

"Q. Where was Trotzky at that time? A. He was in Berlin several times, and mostly in Switzerland.

"Q. What date would you fix for that, Mr. Martens? A. I think the first time I met Trotzky was 1901 in Berlin.

"Q. 1901? A. 1901.

"Q. Where did you meet him thereafter? A. 1903 and 1905.

"Q. Where, Mr. Martens? A. In Germany; in Berlin, mostly.

"Q. Did you ever meet Trotzky, alias Brownstein, in London? A. Yes, sir.

"Q. What year was that? A. In London — I never met him — excuse me, but I met him in New York.

"Q. When did you meet him in New York? A. In 1917.

"Q. 1917? A. Yes, sir.

"Q. What was his occupation in New York at that time? A. He was editing the Russian paper called Novy Mir.

" Q. Were you connected with that paper? A. Yes, sir.

" Q. In what capacity? A. I was on the editorial board of this paper.

" Q. And this paper is still being published in New York City at this time? A. Yes, sir.

" Q. Do you know a man named Bucharin? A. Yes, sir.

" Q. Was he on the editorial staff of Novy Mir? A. Yes, sir.

" Q. What position does Bucharin at this time hold in the Federated Soviet Republic which you represent here? A. He is an editor of a newspaper called Pravda.

" Q. Are you familiar with the publication published in this city called Class Struggle? A. More or less; yes, sir.

" Q. You know it? A. Yes, sir.

" Q. It is a publication gotten out in Brooklyn? A. Yes, sir.

" Q. Do you recall an issue in May of this year which contained an article by Bucharin? A. I do not recall the article, but probably it was published.

" Q. Do you recall an article in that publication called Class Struggle, entitled 'The Church in the Soviet State,' by Bucharin; do you recall that? A. Yes, I recall it.

" Q. And the man that wrote that article is the Mr. Bucharin who holds this official position in Russia, and who is on the editorial staff of Novy Mir in this city? A. Yes, sir.

" Q. Are you familiar with the publication called 'The Revolutionary Age?' A. Very little.

" Q. You know there is such a publication? A. Yes, I know there is such a publication.

" Q. Did you see the issue of July 19, 1919, containing an article by the same Bucharin? A. I do not remember seeing it.

" What part did you take in the Russian Revolution in 1905? A. We organized the Russian workingmen.

" Q. What particular part did you personally take in that revolution? A. As an organizer.

" Q. As one of the organizers? A. As one of the organizers.

" Q. How long did your activities as an organizer continue? A. 1905 and 1906.

"Q. And how did you get revolutionary propaganda from Germany to Russia? A. Oh, we had many ways to get it in.

"Q. Will you describe the various ways through which you succeeded in getting this propaganda from Germany into Russia? A. We smuggled it in.

"Q. Do you recall the names of any persons engaged in that particular activity? A. No, I don't recall; so many.

"Q. Are there any of them here in this country at the present time? A. Not that I know of.

"Q. Did you become involved with the German authorities as result of your activities in that direction? A. No.

"Q. Not that you know of? A. No.

"Q. Were you under observation at that time of the German authorities as far as you know? A. Not to my knowledge, but I suspected that I was.

"Q. As a matter of fact, you were not interfered with by the German authorities? A. I beg your pardon?

"Q. I say, as a matter of fact you were not interfered with by the German authorities? A. No, I was not.

"Q. When were you last in Switzerland, Mr. Martens? A. 1906 I was there.

"Q. And when were you there for the first time? A. Oh, for a short stay in 1903 and in 1906 I was there for a couple of months.

"Q. What was your particular purpose, if I may ask, in going to Switzerland in 1903? A. To see friends.

"Q. Was Nicolai Lenine one of them? A. Yes, he was one of them.

"Q. And what was your purpose in seeing Lenine at that time in Switzerland? A. To discuss the situation.

"Q. Which situation? A. The Russian revolutionary situation.

"Q. And as a result of your discussion with Lenine, what did you do? A. Well, I continued to do my usual business.

"Q. Just what? A. I cannot quite follow your question, Mr. Berger.

"Q. Well, you say you continued to do your usual business, now, I ask you what that was? A. I had to earn my living.

"Q. Well, we all like to do that and we all do that, but in what particular way did you earn you living? A. I was an engineer connected with a large German firm in Hamburg.

" Q. And did you go to see Lenine in connection with your being an engineer for a large firm in Hamburg? A. Certainly not.

" Q. Well, then, as a result of your seeing Lenine in Switzerland at that time, will you tell us specifically what you did and where you did it? A. The question is too broad and general for me to answer, Mr. Berger.

" Q. Well, I will try to separate it: You saw Lenine in 1903 in Switzerland? A. Yes.

" Q. You went there for a specific purpose? A. Yes.

" Q. What was that specific purpose? A. To discuss the situation in the Russian Social Democratic Party. They had split up into Mensheviks and Bolsheviks and there were a thousand and one questions to discuss.

" Q. Which particular group of that party were you allied with? A. The Bolsheviks.

" Q. And you thereafter did something as a result of your interview with Lenine, didn't you? A. Not specifically, unless I corresponded —

" Q. Well, what did you do in general? A. Again, I was interested in the Russian movement, and I was always connected with it.

" Q. You were a member of the Central Revolutionary Committee at that time? A. No, I was not.

" Q. You were subsequent to that time? A. Yes.

" Q. In what year? A. Excuse me; I was never in the Central Committee, but I was closely connected.

" Q. You were one of the prime movers? A. No, I would not call it so.

" Q. Well, how deep was your interest in the movement? A. How deep? Well, gentlemen, the Russian revolution was my life, I can tell you.

" Q. Now, you went to Switzerland in 1905 again? A. In 1906.

" Q. And what was your purpose in going to Switzerland in 1906? A. Well, I wanted to take a rest, and I stayed about a couple of months.

" Q. Did you see Lenine at that time? A. No, not at that time. I saw Plekhanov.

" Q. Who was Plekhanov? A. A leader of the Mensheviks.

"Q. Would you say that the propaganda you were engaged in during the year you have mentioned was of a provocative kind? A. What do you call a provocative kind?

"Q. Well, that word has a pretty well accepted meaning. A. No.

"Q. Well, of a kind to stir up strife, discontent and possible bloodshed? A. Well, my propaganda was—now, gentlemen, the Russian revolution is not a thing of the past couple of years; the Revolution dates back 50 years, and many of the best Russian men were in it and ended their lives in Siberia, so the Revolutionary propaganda of ours would be of no provocative character, because the Czar's government provoked the revolution and we had only to defend ourselves and our liberty as a people.

"Q. Did your propaganda attack the bourgeoisie as well as the aristocracy? A. We were interested in propaganda among the working class.

"Q. Will you answer the question as I have put it? A. Oh, yes.

"Q. And your propaganda has consistently from the time that you were first engaged in it until the very present time been directed against the bourgeoisie, as well as the aristocracy? A. It was a class conscious propaganda.

"Q. And with which particular class exclusively did you represent and ally yourself? A. The working class and the peasants.

"Q. And that was naturally directed also against the bourgeoisie, the petty shopkeeper and tradesman? A. No, I should not say so, the capitalist class.

"Q. Well, just what do you mean by the capitalist class? A. The capitalist class is the class which is living on the producing labor of other people.

"The Chairman: How far down do you go in your classification of capitalists? Where would you stop and where would you begin?

"The Witness.—Well, that is rather a metaphysical question, Mr. Chairman, I could not make exactly a definition of where the capitalist starts and the workingman finishes?

"The Chairman.—According to your conception who would be a capitalist?

"The Witness.—Well, here in this country it would be J. P. Morgan, he would be a capitalist; some profiteer would be a capitalist.

"The Chairman.—Well, would you term a man who owned real estate a capitalist, who got an income from real estate?

"The Witness.—Oh, well, in some occasions, yes.

"The Chairman.—Suppose a man owned his own house, lived in the house himself, or on the premises, and had a tenant?

"The Witness.—It does not make him a capitalist.

"The Chairman.—Well now, who would you call a capitalist?

"The Witness.—A man who is living on the producing labor not his own.

"The Chairman.—Well, how are you going to pick out that man. How are you going to tell?

"The Witness.—Well, a man who has a thousand men working for him and is employing them and living on the labor of those men, he is a capitalist.

"By Mr. Berger:

"Q. Suppose he has ten men employed? A. The same thing.

"Q. Suppose he has two men in his employ, would he be a capitalist? A. Not at all.

"Well, do you draw the line at ten? A. I draw no line at all. Sometimes he might have one hundred working men employed and still not be a capitalist.

"The Chairman.—Suppose you take a horseshoer who has one or two men working for him in a shop, would you call him a capitalist?

"The Witness.—Probably I would.

"The Chairman.—So that your system would class all as capitalists from the person who has two or three men in his employ upward? Is that your conception?

"The Witness.—No, Mr. Chairman. When do you call a man a bald man? How many hairs does he have to have on his head to be called a bald man?

"By Mr. Berger:

"Q. After you left Switzerland the second time, where did you go? A. I went to England.

" Q. What particular city in England? A. London.

" Q. When was that? A. 1906.

" Q. Did you have a passport? A. No, I had no particular passport.

" Q. When you say you had no 'particular passport,' what do you mean — did you have any passport? A. No, I want to say according to the laws of England no passports were required.

" Q. Where did you go from England? A. I stayed in England until 1916.

" Q. And where did you go from there. A. To New York.

" Q. To New York? A. Yes, sir.

" Q. Didn't you go back to Germany? A. No, I did not.

" Q. Had you been in New York before that? A. Yes, I was.

" Q. When? A. For a short period in 1906, I think. It was the time before I went to England.

" Q. During what years were you in England? A. From 1906 — until 1906."

Mr. Sutherland.— That is the way it is here. It may be a misprint. (Continues reading):

" Q. Now you were there following the outbreak of the great war? A. Yes, sir.

" Q. And how did you register in England; as a subject or citizen of what nation? A. Of Germany.

" Q. And you were truthful in so registering, weren't you? A. Yes, sir.

" Q. Then you were as a matter of fact in 1916 a German subject, weren't you? A. Technically, yes, I was.

" Q. Were you or weren't you? A. Yes, I was.

" Q. You then came to this country? A. Yes.

" In what month in 1916? A. I think it was January, 1916.

" Q. In January, of 1916. A. Yes.

" Q. And did you not execute and sign a customs declaration? A. Yes sir; I did.

" Q. When you entered this country? A. Yes.

" Q. In January, 1916? A. Yes.

" Q. What citizenship did you claim at that time? A. German citizenship — I was forced to claim it.

"Q. What do you mean, you were forced to claim German citizenship; who in this country forced you to claim that? A. Nobody forced me, but I came with papers that forced me to say I was a German citizen technically.

"Q. Were those papers genuine or did they set forth the facts? A. Certainly, I had to come with permission of the British government to the United States.

"Q. Then as a matter of fact you were not forced in this country to claim German citizenship? A. No, I could not claim that if my papers said that.

"Q. Were your papers correct or incorrect? A. Absolutely incorrect,— and permit me to explain.

"Q. You made the statement when you came to this country that you claimed German citizenship? A. Yes, sir.

"Q. Now, you tell us you arrived with valid, truthful papers which set forth the fact that you were of German citizenship? A. Permit me to explain.

"Q. Explain it. A. When I was registering in England I claimed to be a Russian citizen.

"Q. Didn't you tell us a minute ago you claimed to be a German citizen? A. I didn't claim it, I claimed to be a Russian citizen, but the British authorities registered me as a German citizen because I could not produce sufficient papers. That is the reason I was so registered in England and that is the reason I received certain papers to America where I had to claim to be a German citizen.

"Q. What was the name of the person in England to whom you claimed to be a German citizen and not a Russian citizen? A. With all the persons with which I had to deal.

"Q. At all events, the British authorities were not satisfied with your claims? A. They were not satisfied with my papers but were satisfied with my claims.

"Q. Didn't you have a German military passport? A. I didn't have any.

"Q. Why didn't they put you down as a citizen of Brazil? A. Because they asked where my father came from and I told them Germany.

"Q. And you told them you had served in the German army? A. Yes, I told them.

"Q. And the authorities felt satisfied you should be classed as a German citizen? A. No, the authorities felt satisfied

to put down a Russian, but only technically a German citizen.

"Q. Then when you came to this country you continued setting forth the fact that you were a German citizen, didn't you? A. I never had occasion to claim it.

"Q. What statement did you make on your custom house declaration when you entered this country? A. The usual declaration.

"Q. That you were a citizen of what country? A. Germany.

"Q. Did you register as an alien enemy when you entered this country? A. No, sir.

"Q. Or at any time when you were in this country? A. No, sir.

"Q. At any time while this country was at war with Germany? A. No, sir.

"Q. In spite of the fact that you entered as a German citizen? A. In spite of the fact that I entered as a German citizen.

"Q. What citizenship do you now claim? A. Russian citizenship.

"Q. How did you acquire Russian citizenship? A. I applied for Russian citizenship papers since the outbreak of the Russian revolution.

"Q. When? A. In March, 1917.

"Q. You have not left this country since you last came here? A. No, I did not leave.

"Q. When did you receive notice of your having become a Russian citizen, Mr. Martens? A. I think May, 1917, or maybe June, 1917.

Q. What sort of notice did you get? A. That my request is granted and I was made officially a Russian citizen.

"Q. Was that an official notice? A. No, from my friends.

"Q. It came from your aunt or your sister? A. My sister.

"Q. Now what prerequisite does the Russian Soviet government require to the attainment of citizenship on the part of a person who is not in Russia at the time the claim is made? A. I could not tell you, gentlemen, what was required, because I am not versed in those matters. The only thing I could tell you is when I was a boy of about 17 years

I applied for Russian citizen papers from the Russian government and General Von Wahl refused to grant me citizenship papers because he wanted me first to serve in the German army and then to become a Russian citizen, so I was refused in 1917 on account of not having served in the German army. Second, my request was as I told you, after the outbreak of the Russian revolution, and I really don't know what kind of laws, I don't suppose any specific laws were in existence,— anyhow, I don't know.

“Q. Is there anything to prevent any resident of this country at this time from acquiring Russian citizenship in the same way that you acquired it? A. Nothing, only that he be an honest man.

“Q. So that any person living in the United States who is admittedly an honest man can become a citizen of Soviet Russia by simply proving that he is an honest man? A. Yes, sir.

“Q. There is no requirement that it be made public in this country, is there? A. I beg pardon?

“Q. There is no requirement imposed by the Bolshevik government that that person make that fact known to this country? A. No.

“Q. Have you any idea how many individuals in the United States at the present time have acquired citizenship in the Soviet Republic in a similar manner? A. Nobody.

“Q. There is nothing to prevent their doing that? A. There is nothing to prevent their doing that.

“Assemblyman McElligott.— Would they have to consult you as authority for that application to be made?

“The Witness.— No, Mr. Chairman; I have nothing to do with the making of citizens in Russia. It is not my business. They have to apply to the central authorities.

“Mr. Berger.— I feel it necessary to emphasize at this point that this plan of changing citizenship which is called to our attention by the witness at this time, and which was admitted by him, if it be put into effect generally and recognized by international law, would enable the foreign element to surrender their citizenship to this country without any declaration; so it would be impossible for us at any time in this country to know who is an American citizen or who is a citizen of the Soviet Republic of Russia.

Mr. Martens.— Mr. Berger, permit me to make a few remarks. Mr. Berger is a lawyer, and he probably knows, that according to American law, if a man leaves a country and stays in a country more than five years, he loses his citizenship, without making any declaration to that effect; is it not so?

“The Chairman.— Yes.

“The Witness.— So this fact about citizenship has nothing to do with any propaganda, or any facilitating of propaganda, as Mr. Berger wants to make you believe.

“The Chairman.— Mr. Berger, you claim the procuring of citizenship in this peculiar way, and that is why it occurs to you that there might be a general method of acquiring citizenship with a residence here?

“Mr. Berger.— The point I desire to emphasize is this: The witness has testified if a man is admittedly honest, and expresses a desire and an intention of becoming a citizen of Soviet Russia, his mere declaration or sayso is sufficient.

“The Chairman.— Must not that be conveyed to the government in some way? Must that not be explained to the other government?

“Mr. Berger.— Did you suppose that it was explained on the part of this government? But our country knows nothing about it; and on that theory we could not know how many individuals in this country who claim American citizenship either by birth or naturalization, may at the same time be citizens of Soviet Russia. That is the point I want to emphasize.

“Assemblyman Pellet.— And the man would not have to go to Russia to become a citizen?

“Mr. Berger.— That is correct. We could live here and claim protection of the American citizenship, and at the same time be a citizen of Russia under that method.

“The Witness.— It is not true, Mr. Berger.”

Mr. Sutherland.— Now, we have come to the point where we want it to begin. We have come to the point where we think the committee would like to hear testimony. Would you take a recess?

The Chairman.— Recess until four o'clock.

Whereupon, at 3:47 P. M., a recess was taken until 4 P. M.

AFTER RECESS (4:00 P. M.)

The Chairman.— Judge, Mr. Stedman desires to make a suggestion.

Mr. Stedman.— Mr. Chairman and Committeemen and Counsel: From the estimate which has been given to me of the testimony of Mr. Martens, it will take some seven or eight hours to read it, or longer, and it occurred to me that if the Committee could, they could furnish us two or three copies of that evidence, you might wish the same, and that we have until Friday noon to go over it and read such portions as each side may desire. I see no other method of eliminating the almost two days' sessions which I understand it will require to read this evidence. It may be then that you would want to read enough to take three, four or five hours, and there might be some method of economizing time by that process. I would be glad to hear any suggestions from counsel if they have any other method.

Mr. Sutherland.— Your suggestion is that we have the entire testimony of Mr. Martens printed.

Mr. Stedman.— And furnished to each side.

Mr. Sutherland.— And furnished to each side.

Mr. Stedman.— And that we then have an opportunity to read it over so that we can put it into the record of this case by reading such portions as we think will bear upon our defense or for the purpose of cross-examination, offering in cross-examination, or modifications of statements made.

Mr. Sutherland.— We have four pages more of the hearing from which I was reading. Now, if I may finish that it will only take five or ten minutes. Then we will suspend the reading of Mr. Martens' testimony until we can take up this suggestion.

Mr. Stedman.— I assume that the part that you call attention to now, as you mentioned before, is the part that you are most interested in.

Mr. Sutherland.— It is one of the things we wish to read.

Mr. Stedman.— I think we should either put it all in at the same time; I think that would be the fair way.

Mr. Sutherland.— We are ready to do that, Mr. Chairman, if that is your pleasure.

The Chairman.— What is that?

Mr. Sutherland.— To have the entire testimony of Mr. Martens printed as a separate document and submitted to them for two or three days, and then each side can read what we desire.

The Chairman.— I think that is the better way to do it.

Mr. Stedman.— You can see that while desiring to expedite the hearing, we can agree on no other course because we couldn't have that handed to us and go along with the regular work and read it.

Mr. Sutherland.— All right.

Mr. Karlin.— Will it be printed or mimeographed for our approval.

The Chairman.— Printed, as I understand it.

Mr. Wolff.— Mr. Chairman, the suggestion has been made that other speeches made at the meeting at which Mr. Waldman spoke, whose speech was read yesterday, should be read into the record, and we desire at this time to read into the record the speech of the chairman at that meeting, Mr. Solomon, and certain other speeches that were made at the meeting to celebrate the Second Anniversary of the Soviet Government, held at the Brownsville Labor Lyceum, Friday evening, November 17, 1919.

Mr. Stedman.— The stenographer in that case testified that he did not get the first sentence or two of Mr. Solomon's speech,— the stenographer.

Mr. Wolff.— Well, I propose to begin, Mr. Chairman —

Mr. Stedman.— Well, what I was going to suggest was this. I think you ought to either through Mr. Solomon, by calling him, secure that portion of the speech which preceded the portion secured by the stenographer.

Mr. Wolff.— Mr. Stedman, Mr. Waldman was speaking at the time the stenographer entered the room, and it was the first part of Mr. Waldman's speech the stenographer failed to get.

Mr. Stedman.— I understood he also failed to get part of Mr. Solomon's speech.

Mr. Wolff.— No, I think not. The record begins with Mr. Waldman's speech.

The Chairman.— You may proceed.

Mr. Stedman.— Is the stenographer here now?

Mr. Wolff.— No, he is not.

Mr. Stedman.— Well, Mr. Solomon in opening the meeting spoke before Mr. Waldman. That is as we understand it.

Mr. Wolff.— This record, Mr. Chairman, shows that it begins with Mr. Waldman's speech. That is the only record we have. The stenographer arrived, as the testimony shows, while Mr. Waldman was speaking. Now, it may be that Mr. Solomon spoke before the stenographer arrived also. We have no record of that and we cannot offer it in evidence if he did.

The Chairman.— But you have another speech of Solomon's there?

Mr. Wolff.— Yes, sir.

The Chairman.— All right, and if at that meeting Mr. Solomon made another speech —

Mr. Stedman.— He made two; one at the opening —

Mr. Wolff.— Mr. Solomon made several speeches at that meeting.

Mr. Stedman.— He made two; one at the opening and a speech later.

The Chairman.— Well, you may read the one you have for what it is worth.

Mr. Wolff (reading):

“ Chairman Solomon.— Comrades, we have a long list of speakers. One thing I must insist upon, and that is, that unless you have business that makes it necessary, you must not march up and down in front of this platform, and I do not care who it is.”

Mr. Wolff.— Now, that is the beginning of the speech by Mr. Solomon which I will read if Mr. Stedman wishes it, but the speech that I wish to read at this point is a subsequent speech made by Mr. Solomon.

Mr. Stedman.— I think you ought to read all of Mr. Solomon's speeches.

Mr. Wolff.— We will read all of Mr. Solomon's speeches.
(Reading):

"Also, I am requested to make an announcement or two.

"Beginning November 16th, that is a Sunday, Brownsville Labor Forum will open in this hall every Sunday afternoon at three o'clock, and will have a distinguished person lecture from this platform every Sunday afternoon at three o'clock. The first of these lectures will be delivered on the afternoon of the 16th of this month in this hall. Albert A. Knott, one of the editors of 'The Nation,' that fighting radical publication, will speak in this hall. (Applause.)"

The Chairman.— Strike out the word "applause."

Mr. Wolff.— I beg your pardon. I put it in because Mr. Stedman asked for it yesterday.

Mr. Brown.— Why not put it in and let Mr. Stedman read whatever he wants to?

Mr. Stedman.— I was cross-examining the witness yesterday as to the exactness of his notes.

The Chairman.— Read it as it is.

Mr. Wolff (reading):

"On the subject, 'Evolution of Rebels.' Then the following week Algernon Lee will speak. Then Louis P. Lochner, Alexander Fitchhandler, Elizabeth G. Flynn, and so on down the line. We will have some of the best-known men on the American radical platform speak in this hall every Sunday afternoon. At every lecture we will have music, vocal and instrumental.

"Now the Rand School is opening classes in this building, classes in English, in history, in Socialism, and on the International Labor question. Shiplacoff will have the class in English. Norman Thomas will have the class in history. David P. Behrenberg will have the class in Socialism. Lochner knows about the International labor movement. Alexander Fitchhandler will take an independent class. Alexander Fitchhandler is a principal of a public school in the city of Brooklyn, and a member of the Socialist Party.

"You may join any one or several or all of these classes.

"If you desire any information, apply for it in the office

of the Labor Lyceum. Five nights a week during the winter will give you an opportunity, conveniently and cheaply, to acquire, in as small a time as possible, what might be described as a liberal education, and we all of us need education. So much for that.

"Now, one thing further: We are all through, and we will proceed to introduce the next speaker, when I have said this: You know that three or four hundred thousand steel strikers are on strike in this country. Those steel strikers are battling against the principle of economic exploitation of men by men, and of class by class. That is the same principle that the Bolsheviki or the Russian Revolution has established, and it is struggling to perpetuate the end of such exploitation.

"These steel strikers have been out a good many weeks, and they are fighting the Government and the State of Pennsylvania, the police, the constabulary, the militia, the army, the powers of organized government, all are arrayed against the steel striker. They are not permitted to hold meetings such as we are holding to-night — in Pennsylvania, in the Steel Districts, if the strikers got together as you are here together to-night, the constabulary would come into the hall, and in all probability a constabulary would disperse the meeting. That is the situation of the hundreds of thousands of strikers, and of their thousands and thousands of dependents. They are facing it in their struggle against the most powerful economic organization in this country or any other country. The United States Steel Corporation is the mightiest aggregation of capital that you can find anywhere in the world. These steel strikers are a brave, valiant, wonderful and aspiring people. They have appealed to the working people, the thinking working people of the whole country, to come to their support.

"To-night, we are going to ask you to help us collect a fund which we will send to the steel strikers of Pennsylvania and other parts of this country. Who is going to begin by handing me a dollar bill or more for the striking steel strikers of the United States of America? There is one. There is another one, for the babies and children, the wives and mothers of the steel strikers who for weeks have been fighting the United States Steel Corporation.

"Here is another one for those who are fighting Elbert H. Gary, who have been fighting the government, the courts, the sheriffs, the crooks. We want this money for the starving steel strikers, every penny for the strikers. (At this point numerous people approached the platform and handed in dollar bills.)

"This is the way the Socialist party supports the economic struggle for the working people. This is one of the ways in which our party supports the struggling workers in the industrial field. Are there any more? All of this money will go to buy food, pay rent, for those steel strikers, those men without money, but with a wonderful courage, and many of them with an inspiring idealism, struggling for American liberty against an autocratic steel corporation. Remember that. Are there any upstairs who will give their dollar bills for the steel strikers? (More money handed in at this point.)

"Remember, that for every dollar given here Elbert H. Gary will give ten thousand dollars. Don't forget that. For every dollar you give the United States Steel Corporation and the capitalists of America will provide a million dollars, and they will not feel it nearly as much as you will feel it when you give your single dollar bill. Are there any other dollar bills?

"In the meantime my comrades are taking up a change collection. You can begin to understand what these people are putting up with there in Pennsylvania when they won't even permit them to hold a public meeting. They deny them their constitutional rights. Have you read in the paper that the Federation of Labor of the State of Pennsylvania has decided to form a general strike of all the organized workers of Pennsylvania to compel the government to protect the strikers in their right of free speech, free press and freedom of assembly?

"Are there any other dollar bills? If you cannot walk up here, hand them to the collectors. This money is going to the steel strikers. Don't forget that. It is going to the steel strikers of Pennsylvania.

"Now, comrades, we will proceed with the meeting.

"Just as soon as you get your collection, collectors, go upstairs and count it.

"Comrades, I will ask you to please stop smoking. It is uncomfortable for others. (Applause.) Not only does it

make it uncomfortable in this stifling atmosphere, but it is a violation of the law. The law prohibits smoking under these circumstances.

"Remember, now, we will have no parading up here and down of anybody in front of the platform. I do not mean the people who are making the collection, but the others. (Laughter.)

"I have been requested by the speakers to tell the audience not to parade up and down, and I don't blame them.

"As the next speaker I am going to introduce one who is himself a Russian, who understands Russia, who has spent the best part of his life in Russia, who knows the history, and particularly the revolutionary history of Russia, who has himself lived through the revolution, played a part, an official part in the revolution, who was secretary to the Ministry of Labor in the Kerensky government. I refer to our comrade, Dr. Zilboorg, who will now address you."

Mr. Wolff.—The record shows at this point a speech by Dr. Gregory Zilboorg, which I intend to omit.

Mr. Stedman.—Why not read it?

Mr. Wolff.—I think Mr. Stedman may read that speech if he wants to.

The Chairman.—Go on with Mr. Solomon's speech.

Mr. Wolff.—

"Chairman Solomon: Before introducing the next speaker. I want to say something that I have been requested to say by many of the comrades. We have just got through in New York city waging the most remarkable campaign in the history of our party. We did not wage a city-wide campaign. Our speeches were made in just a few districts, Brownsville, Harlem, Bronx, Williamsburg, the East Side, and perhaps in a few districts outside of the ones I have just mentioned.

"We did not have what might be called a real city campaign. Our candidate for President of the Board of Aldermen (applause) did not make more than just a few speeches, and those speeches were made in just a few of our strongholds, and he didn't have time to go outside and do any material work there. Our organization was not prepared to back him or any other candidate with such political crusade. Yet, not-

withstanding this fact, notwithstanding the extraordinary circumstances and disadvantages under which we conducted this campaign, we succeeded in polling almost 150,000 votes. Men and women, understand that in not less — and this is a fact — in not less than 50 per cent of the polling places in New York City, we had no watchers at all. Not less, I say. Some say that at least 70 per cent of the polling places we had no watchers. How will we ever know how many votes that were cast for O'Neal were not counted? At 70 per cent of the polling places there was nobody to watch the Socialist vote, and there were 70 per cent of the polling places unmanned, with a broken organization, fighting the enemies outside, and the dirtier enemies inside, the Socialist Party polled actually, according to the count, 150,000 votes; 150,000 votes, with the New York city press crying Reds, Bolsheviks, Nationalizers of Women — 150,000 votes! I believe that if every vote had been counted, we would have had not less than 200,000 votes. We got, in New York City, on Election Day, in my judgment, not less than 200,000 votes. We elected 5 Assemblymen, two against the Fusion. We elected five of our Aldermen. In many districts, our Assemblymen and our Aldermen ran a very close second. If we had faced them in a three-cornered fight, if we had an organization, there would be in the next Legislature in Albany, to meet the Lusk Committee, not less than 14 of the Socialist Party, if they had not combined against us and if we had an organizer.

“We have the most remarkable record of a fight in the history of a party. Comrades, I know what we can do and what we cannot do with the five Aldermen and the five Assemblymen; but that vote shows the solidarity, it shows class consciousness, it is serving notice upon the reactionaries of the city, of the state and of the country, that the working class in New York City is waking up.

“Now, my friends, in just a few months, we will be in a Presidential campaign, the most important Presidential campaign in all the history of these United States. How about that, Jim? Comrade O'Neal is a student of American history, a writer of American history, and he will bear me out that we will have next year the most important campaign in all the history of our country.

“Now, in a few months we have already given the nomination to our beloved comrade, Martyr Eugene V. Debs (great

applause); in jail, or out of jail, behind prison bars, or this side of prison bars, our standard-bearer in the great campaign that will soon be upon us, will be that eloquent, beloved and remarkable man Debs.

"Now, we have got to build up our organization. We have got to be able to show a fighting front to the reactionaries in the great Presidential campaign, in the gubernatorial campaign, in the Congressional campaign, in the State Senate campaign, in the United States Senate campaign; we have to go into that great campaign with a well organized, fighting Socialist organization. Every enrolled Socialist voter belongs in the Socialist Party; every man and woman in this hall, if you are at all sympathetic with us, you belong in the Socialist Party. We can not conduct a campaign, we cannot hold meetings, we cannot distribute literature, we cannot make propaganda for Socialism, unless we have you, the working men and the working women, in the party.

"You are ten thousand times more important than Shipplacoff or Solomon or Blodeck or any of us. And Shipplacoff and Solomon and Blodeck and Waldman and Zilboorg can only make a social movement; but you thousands of workingmen and women can make a social movement with or without Shipplacoff, Blodeck, Waldman and the rest of us.

"You will find plenty of Shipplacoffs, plenty of Solomons, plenty of Waldmans, plenty Blodecks right in your own ranks. The army can make generals, but generals can never make the army.

"So, if we are going to conduct the fight, Generals and Lieutenants and Captains are not enough, writers and speakers and agitators are not enough; we have got to have an army to fight the battle for the emancipation of the working people of our country, and you are the men and you are the women who will have to enlist in that army from the ranks of a fighting army.

"I want to say to you to-night, and I say it to you most earnestly, if you don't do it to-night, then do it to-morrow; do it as soon as you possibly can; come here and join the Socialist Party. You can go to the Second Assembly District or the Eighteenth Assembly District, or the Twenty-second or Twenty-third, the English speaking branch or the Jewish speaking branch, it does not make any difference,

just so long as you join the Socialist Party and help us to get ready for the great fight in which we will be engaged in in just a few months.

"Do you want a big vote for Debs? Do you want a big fight for Debs? Do you want a big fight for all of our political and industrial prisoners and their emancipation? Then you have got to enter into this army and build up the organization that is waging the battle to make these men and these women free, to restore them to our midst, so that they may conduct the work of our education and our emancipation. (Applause.)

"So that the fight is up to you. You must back these men. You must back the Shiplacoffs in the Board of Aldermen, the Solomons and the Claessens and the Waldmans in the State Legislature. When you speak up there and speak down here"—

Mr. Wolff.—I want to change that: "When they speak up there and when you speak down here, we must be able to tell the capitalists, the reactionaries, the politicians, the forces of corruption, that back of our words stand thousands and thousands and thousands of industrially organized and politically organized working men and working women. You and not we must conduct this battle. You are the army. We are just a small part of the army. I pray to God, my friends, comrades, men and women, that you do not lose any time. We need you now more than we ever needed you before; to-night or surely to-morrow or the day after to-morrow, come to the Lyceum and make your application out to join the Socialist Party of America.

"Without further ado, I am going to introduce to you the man who is the Standard Bearer for our party in this great city campaign, the man who, running at the head of our ticket, helped us to poll 150,000 votes, our loyal, our devoted, our true comrade, James O'Neal.

"Mr. James O'Neal.—Mr. Chairman and Comrades: We are meeting to-night on the Second Anniversary of the Second Revolution in Russia. We meet in the presence of the strangest conduct on the part of governments that the world has ever known.

"There is no war being waged against Russia. If you ask the diplomats of England and of France and of the

United States, they will tell you there is no war being waged against Soviet Russia. If you ask the administration in Washington whether the war is ended or not, President Wilson will say, 'Yes, it is ended; the war is over in the case of Prohibition, but the war is on regarding the United Mine Workers.'

"War is on, and it is not on. There is no war against Russia, and there is a war against Russia.

"Now, whether these men are drinking or not, I do not know, but to me they talk like men who are on a drunk and don't know what they are talking about at all.

"However, it is not surprising to us, and during the short time that I shall occupy the platform, I want to draw some historical parallels.

"It is said that the Russian Soviet Government is not a stable government, that chaos exists there, that it is undergoing a process of dissolution. As a matter of fact, Russia has had only two years, and despite the fact that Soviet Russia has had to face counter-revolutionists within, plot after plot, and efforts to wreck the administration, efforts to destroy the industries, efforts to overthrow the government, despite this and despite the fact that Russia is facing some twelve or thirteen nations at war with her, who have armed bandits endeavoring to surround Russia and cut her off from the world, despite the fact that Soviet Russia inherited a rotten regime of corruption from the Czar, the breaking down of its economic life, famine stalking from Siberia to the Baltic, despite all these tremendous handicaps, with the imperialistic powers of the world trying to crush this working class Republic, she has survived it all, and the latest news shows us that even the armies in the Baltic, some of them, or at least part of them, are surrounded by the Soviet Red Guard.

"In two years this tremendous drama has been going on in Russia, Russia coming out of the revolution of blood, with all these tremendous handicaps rising out of a world war that had practically ruined and wrecked a large part of eastern and central Europe, yet Russia has her banners swung to this very hour, two years of it.

"What happened in the United States in the Revolution that we are accustomed to glorify every Fourth of July? A revolution that began long before the Declaration of Independence, but in 1776 the war was on, seven years passed

away, and it was 1783 before peace was realized between this country and Great Britain.

"Seven years — a long struggle! Did that mean a stabilized government in the United States? Not at all. All the historians tell us that the period from 1783 to 1789, that long period, was a period of chaos, disorder, violence and dissolution. But note this, there was no armies of invasions across the Canadian border, no great imperialistic powers of Europe arming bandits, arming Kolchaks, and others, threatening the life of the infant Republic, no attempts at counter-revolution within the heart of the Republic itself, no army on the western border, no great fleets of battleships on the Atlantic seaboard and in the Gulf of Mexico to cut off all foodstuffs and all supplies. The infant Republic of the United States had an absolute free deal, giving it time in which to rebuild its institutions.

"And yet the peace declared in 1783 was a peace that almost involved the dissolution of the revolutionary government, in the winter of 1786 and 1787; during that period there were rebellions of workers and farmers, skilled mechanics, farm laborers and farmers in Vermont and Massachusetts, in New Hampshire, all through the New England States; revolts and uprisings that almost overthrew the revolutionary government.

"It required some fifteen years from the beginning of the revolution, fifteen years mark you, before a central Federal Government was established; and the Government had finally become a stable, orderly thing, such as we know it is today.

"I say to you here tonight, not only as a native born worker in the United States, but as an International Socialist, that if it required fifteen years for a revolutionary government to be established in the United States to kick the British power across the Atlantic Ocean, then I say to you that it is reasonable that Russia, in the midst of the world-wide chaos, deserves at least ten years before there be any condemnation of her.

"But, they say, that there have been violences in Russia. Some violence in a revolution! Just imagine! Do they think a revolution is a pink tea party, for men and women to gather around the table and say, 'Now, let us have a revolution.

Have a drink with me. Let us have a drink. Let us drink to the success of the revolution' — and then you go out and slap a Bolsheviki on the wrist, and say, 'Please depart; we want a little revolution.' (Laughter.) Is that the way you have a revolution?

"Every tremendous appeal in the world's history that has brought about new institutions, every great revolution, the French Revolution, the American Revolution, the Russian Revolution — all such revolutions have been accompanied with more or less violence, and it is impossible to dispense with it.

"What about their own American Revolution? Was that a pink tea affair? No violence? No mobbing? No clubbing? No property confiscated? Read the New York Times. The politicians, the diplomats in Washington, misrepresent and misinterpret American history itself. In the American Revolution we had some radicals at that time. You know radicals are out of date nowadays. We had some people at that time that Moderns would call Bolsheviks, for example:

"The Sons of Liberty organized first in Boston; spread through the New England States, and as far south as Baltimore. Who were the Sons of Liberty? Why, those were the Red Guards of the American Revolution; that is who they were (applause). What did they do? They organized, to insure that the revolution would be a success. They were composed largely, or to some extent, of lawyers and in a few cases of ministers, but largely of farmers and laborers and mechanics, working men, organized in the Sons of Liberty.

"And do you know what they did? Well, whenever they found a loyalist — and today, if you are a loyalist you are all right, that is, if you are loyal to Gary and Rockefeller, to that gang, you are all right — but a loyalist was in those days in very bad odor, he was an undesirable citizen; and where they found a man who was loyal to Great Britain — they were generally merchants and wealthy men, do you know what those early Bolsheviks did? Why, they simply got a lot of rags, and in some cases a huge bundle of rags, and they set them on fire, placed them in a household where the man and his family happened to live, together with his servants, and filled the house with this stinking smoke and drove him out of the house. That is what they did.

"In other cases, they simply took a loyalist out into the woods, treated him to a coat of tar and feathers, and took possession of his home — took possession of his home and his household. They mobbed thousands and thousands of these British loyalists. They deported, they exiled thousands and thousands of them to Canada. They took possession of their property, confiscated their property, and in some cases many of these British loyalists were killed, lost their lives in the American Revolution.

"And here are the newspaper editors, here are the politicians, here are the professional patriots and officials at Washington, holding up their hands in holy horror because a lot of the Czarist vermin have been driven out of Russia and their property has been confiscated, and the working class are at least free. Why, we had exactly the same things in the American Revolution. What is the one thing they glorify in the schools to this day? Why, the Boston Tea Party, isn't it? What was the Boston Tea Party? The Boston Tea Party was nothing more nor less than this — that a group of so-called American patriots disguised themselves as Indians, went aboard three British ships and confiscated tea, property, and threw it into Boston Harbor; and the very gentlemen, the very patriots who are denouncing Russia to-day because she has confiscated property, are those who glorify the confiscation of property from Great Britain during the period of the American war. The very ones who protest against the Red Guard in Russia that is defending the revolution, are those who glorify the Sons of Liberty who were the Red Guard of the revolution in this country.

"And so I might draw a large number of historical parallels here to-night to show you that there is a great deal of similarity, so far as methods are concerned, although, of course, the objects were not the same.

"The difference is this: We are accustomed in this country to glorify all bourgeoisie revolutions, all capitalistic revolutions are glorified, are worshipped, but any revolution that proposes to emancipate working men and peasants, are denounced and are anathematized, and they try to strangle it in the blood of those who achieve them.

"However, the Russian Revolution, the Russian Soviet Socialist Republic, in all probability, is now destined to sur-

vive. All the cunning of the Allies, all the plots of counter-revolutionists, all the blockades they may seek to establish against Soviet Russia, in all probability are going to fail; and during all the coming years that are yet to come, all the generations that are yet to come upon this earth it will be known that in Russia the red banner of freedom flows above 150,000,000 human beings, and it will stand as a beacon light to all the peoples of the world; and because it will serve as a beacon light, for that reason the diplomats and the bankers and the financial oligarchy and the international imperialists intend to crush it if they possibly can.

"Russia is an inspiration of the working class, to the working class of the world. There is plenty of lying and there will be plenty of more lying about Russia.

"They tell us they have proposed a massacre of the bourgeoisie and the intellectuals of Russia, and we read in the newspapers one morning about this terrible thing, and we get visions of Lenine, for example, drinking a bowl of human blood for breakfast, of Trotsky dining on the shin-bone of a Czarist officer, of Madam Culendale gnawing on the delicate fingers of an artist or musician. And then when the hour came for this massacre of the bourgeoisie and the intellectuals, the news came through that instead of a massacre, there was a general amnesty for several thousands of political prisoners. (Applause.)

"And they talk about the nationalization of women. Mr. Waldman has spoken about that I understand, but assuming this nationalization is correct, assuming there was some truth in the statement that women had been nationalized in Russia, what grounds are there for complaint in the United States?

"Is it not a fact that in thousands and thousands of cities of the United States, ruled by Republican and Democratic parties alike, official prostitution is recognized, is taxed, is licensed, is regulated by these Republicans and Democrats throughout the United States? Yes; and many of them even patronize them. (Applause.)

"The things that they have charged against Russia, violence, suppression of free discussion and so on — why, in the name of common sense, aren't these the very things that we have in the United States, that still prevail in the United States in many parts of the country?

"All through the Mississippi Valley and the Rocky Mountain States and the wheat-growing States of the Northwest, and the entire Gulf States, almost to this very hour, no Socialist meetings can be held; so that if there be any suppression of opinions in Russia, why it ought to be in perfect accord with the Democratic Bourbons who constitute the administration of this country today; they ought to be perfectly satisfied with it, because in that case the Bolsheviks are merely following the example of the Democratic administration.

"They say that newspapers are suppressed, that no anti-Bolshevik papers are allowed to appear, which is not so; but as a matter of fact, thousands of papers opposed to the administration of the United States have been crushed, and they can not get their mailing privileges back to this hour.

"They say violence is committed against the opponents of the ruling party in Russia. As a matter of fact, in the United States, thousands of men have been mobbed, tarred and feathered, and in some cases lynched; and in the Southern States of the United States, where the Democratic Party has ruled absolutely supreme, with the exception of one period, since the days of Thomas Jefferson, in that part of the country, the most atrocious violence prevails, that has ever cursed any nation in history, and black brothers of ours are burned alive at the stake — in the United States; and if we be opposed to violence, let us clean our own dirty back-steps, before we make any suggestions about Russia. (Great applause.)

"So that there is not a crime, there is not an atrocity, there is not an injustice that is charged against the ruling party in Russia but can be brought, to a large extent, with equal, with more justice, against many of the politicians and the Administration in the United States today.

"What they hold up to us is an image of their own rotten dirty regime in the United States, and this particular thing, **this vile thing** that they have made a thing of hatred and disgust throughout the United States, they have labeled it the Bolsheviks.

"When I was a boy growing up, when my parents wanted me to mind them, they always had a particular method, and the parents of other boys out in the Mississippi Valley did

the same way. My father and my mother would sometimes call me before them and say, 'Jimmie, don't you go to the river; don't you go to the river in swimming with those boys again; you may get drowned;' and not only that, 'But if you do it again, and if you don't mind me, the boogy man will get you; now, look out.'

"That boogy man was impressed upon me as a sort of visualised form. He appeared to me as a monster human being with large bushy hair, bristling hair and whiskers, one from whose mouth there came blue fire, one who had huge talons upon his fingers — a horrible monstrosity.

"And when I came into my room, and sometimes went into a dark room, I looked from one side to the other to see if I could find the boogy man. I was afraid of the boogy man. They impressed it upon my mind. It terrorized me.

"Do you know, my friends, that the ruling powers of the world have profited by that sort of terrorism that is practiced upon the children of the country? They have constructed a monstrous shape, guilty of the most horrible crimes, and that is the boogy man. They have created for the grownup children of the world this boogy man, and they call that man, that boogy man, a Bolshevik. It is a creation of their own craven, cowardly mind. It is a creation of their own craven, cowardly mind, a creation that is an artificial creation.

"As a matter of fact, if one-half of what is said against the ruling party in Russia was true there would not be any one of us saying a word in its behalf here to-night; but because we know that it is a world propaganda, that it is financed by the bankers in Lombard street and on the Paris Bourse and in Wall street, the International financial oligarchy which, through the League of Nations, proposes to dominate the world, to exploit the peoples of the world, to crush the aspirations of the backward peoples, to suppress the races of the world — because we know that they are back of it, we know that they are giving us an artificial boogy man when they talk these things about the Bolsheviks. (Applause.)

"Now, a few words and I am through. We have a big struggle before us in the United States. There is no question about it. Nowhere in the world are the dark forces of

reaction and autocracy more active than in these United States. The National (Security) *Obscurity* League, the American Defense Society, the Democratic party, the Republican party, the bankers, the diplomats, the professional politicians, have made up their minds when Czarism went down in Russia, by the gods they are going to introduce it into the United States!

"Sometimes I think one reason why we are all supporting Kolchak in Siberia is because some of the politicians in the United States want Siberia for the same purpose as the Czar had it for. They want it for their political prisoners, the several thousand human beings who are wearing chains in the penitentiaries of the United States to-day.

"We have a big struggle before us. They would like to goad us into some conduct that would enable them to crush us, but we shall not play their games; we shall continue our efforts along peaceful, intelligent, educational lines, knowing that in the last analysis that once we reach the heart, the brain, the conscience of the great master of the American people, come what will, gags, chains, jails, cannot prevent us from transforming the United States into a genuine, thorough-going industrial democracy of Socialism. (Great applause.)

"That may be years, but it may be only a few years. My judgment is that if Europe goes Socialist — and the bankers of the United States who return from Europe are afraid that it is going to go Socialist within the next year — if it does go Socialist, capitalism cannot permanently last in the Western Hemisphere; it has got to go Socialist also.

"When it goes Socialist, when this world is free, and the proper principles dominate the institutions of the twentieth century all over the world, we can look back over the stages of history and compare this rotten, brutal, drunken capitalism with all the other periods that have gone before, and we can see this, that practically all the ancient history at least contributed something that is worth while to mankind.

"The ancient Greeks gave us her law-givers in Solon and Pericles; her great sculptors and philosophers in Plato, Aristotle, Socrates, and the rest.

"The ancient Egyptian civilization gave us her wonderful pyramids, the wonderful work that is the admiration of modern engineers today.

"Even India with her mystic philosophies, contributed something that has been lasting for mankind.

"Even backward, feudal, superstitious Middle Ages gave us wonderful handicrafts, and their wonderful gothic cathedrals; that even the ever present capitalism gave us some of their wonderful scientists, Huxley, Wallace and the rest; but in these days of capitalism, in these days when it has grown idiotical; brutal and corrupt, what has it to offer in comparison with all the other periods of history? Nothing but censorship, jails, gags, poverty, prostitution, destitution and corruption in general. Mankind will at least breathe free when the working class passes this thing on to history, with all the other slave regimes of the past. (Great applause).

"Chairman Solomon.—Comrades, I think so much of that speech, that we are going to ask our good friend who is taking it, the stenographer in the corner, I presume for the police authorities or for the Department of Justice, to please transcribe a copy of it for us. We will be happy to pay anything within reason for a transcript of that speech. I think it was a fine speech. I think the Socialist party will be happy to print it in the form of a pamphlet, so that we may distribute it or sell it as propaganda literature. (Great applause).

"The pity of it is this: That when the police officials or the Department of Justice agents read that speech, finding nothing in it that in their judgment is seditious or violative of the law, they will pass it up, unappreciative of the splendid message that it contains.

"If only we could be assured that the speech would have an enlightening effect upon a narrow-minded lot of blind bats, who will read it, there would be some satisfaction in the whole situation beyond this meeting; but since we know that so far as we are concerned, they will look for a word here and a word there and a phrase here and a phrase there, upon which they may pin an indictment, why there is nothing but despair so far as they are concerned.

"I do not mean that man who is taking the speech, because I am almost willing to bet it is 75 to 100 that he is in complete sympathy with this speech.

"Now I want to say again, if he can't do anything else with the transcript, he can come down to our office any time and we will be happy to pay him for that transcript, because I am in earnest about it. We would like to make a pamphlet out of it, because it will make a splendid piece of socialist literature.

"I think you will agree with me that it was one of the most learned and one of the most instructive and one of the most timely speeches delivered from the platform.

"You notice what these meetings are coming to be like, when you come to think of it; here is an audience close to two thousand people; this is not a mass meeting; this is a class room; and people are receiving an education, a broad liberal education in history, science and literature, in world politics in this audience. It is wonderful, the educational value of these great meetings. There are men and women here who, but for their attendance at this meeting, never hear anything outside of their homes and outside of their relationships, and it is an inspiration to see a meeting of this kind.

"Now, without further ado — I am afraid I have already said too much — I want to introduce a man who was recently elected to represent this district, the aldermanic district, by a majority vote in the New York City Board of Aldermen. I refer to our good Comrade Shiplacoff. (Great applause).

Mr. Wolff.— The next speaker, Mr. Shiplacoff, is reported to have spoken in Yiddish. (Reading):

"Chairman Solomon.—Comrades, we did not expect a visit by the Representative of the Boston Policemen's Union tonight. (Applause.) They have been visiting the Labor Unions of our great city, and they have been receiving splendid assistance from those Labor Unions. They were in the building, or in the neighborhood, calling on some of the unions, and they dropped in on our meeting. We are only too happy to give them an opportunity to present their case to this working class audience. These people are all working men and women of the working class.

"I take pleasure in presenting as the spokesman for this committee, representing the Boston Policemen's Union, Mr. Brock."

Mr. Wolff.—Mr. Chairman, there is a speech following the speech of the representative of the Boston Police Workers, which is two pages, which we would like to read. This is by Mr. Shiplacoff. (Reading):

"I can only say that it is too bad that they didn't have"—

The Chairman.—We are somewhat familiar with those speeches. Go ahead.

Mr. Wolff.—Even the one you have not heard before. (Reading):

"I can only say that it is too bad that they didn't have the Brownsville police in here to-day. As far as I am concerned, I think we can say that we are 100 per cent. in sympathy with you.

"I want to see the day that not only the policemen will be unionized, but even the man who pushes the pen for the department (indicating shorthand reporter).

"I can hardly imagine a Department of Justice that sent Eugene Debs to jail, a Department of Justice that has 2,000 men and women to-day innocent, as innocent as men and women ever were in the eyes of God and men, in the jails and penitentiaries of America, how such a Department of Justice can pay decent wages to a man that does this kind of work (indicating shorthand reporter).

"My friends, you are simply one of the last straws which shows which way the wind blows. You are just one of the last types of the working classes beginning to realize just where in the world you are.

"They have always told you policemen that you belonged to the working class, but God bless you, some of you never seem to know it. It requires an era of unusually high cost of living, it requires a tremendous upheaval the world over, to wake up some people.

"I have not the least doubt that these gentlemen knew it all right enough, there are a great many of them everywhere that know it, but the trouble is that the discipline is so

rigid, it is so strict, that a fellow cannot open his mouth and say a word to his neighbor, but he is afraid that the next thing you know, the Sergeant may know it, the Lieutenant may know it, the Captain may know it, the Commissioner may know it, and then your bread and butter is in jeopardy.

"That is the reason, I know, why you people have not started this thing before, but it is never too late. You are all right. You have got here in time, and I am not worried about it. Even if the worst comes to the worst, even if the Boston police strike is lost to-day, many and many a strike has been lost in years past, but that does not discourage us, and I hope to God it won't discourage you. Stick to the job and you will win out. (Great applause.)"

Mr. Wolff.—That finishes that report, Mr. Chairman. We suggest that you adjourn until to-morrow morning, Mr. Chairman.

The Chairman.—Mr. Stedman, how about it? The Chair is going to suggest, if you have a large number of documents to read—I do not want to shift the theory of your case, either one of you, but possibly you would spend some time Friday reading some of the documents which you read to-day—I would like to go home Friday night.

I do not think this investigation should be limited to three days a week, quite. They are pressed very badly for time and an early decision should be arranged for this case. I think if you could arrange to put in active proof to-morrow and leave over some matters that could be read the next day, we would be very glad to sit here and take it, because it takes a lot of time, and I would like to have you arrange that, if you can, without disorganizing your proof.

Mr. Sutherland.—Mr. Chairman, I think you should know the counsel do not wish to boast on what they have been doing, but counsel have been called into this matter without any preparation, and spent from the time of adjournment on Thursday night continuously until Tuesday morning working in this matter. We worked until one and two o'clock at night. We took no vacations and did not stop anywhere, and we propose to do it at the next recess. There is a vast amount of material here that we would like to look it over.

The Chairman.— I will take it up to-morrow.

Mr. Sutherland.— We will not lose any time for the Committee by taking a recess when we ask for it. We will save your Honor's time by sorting out our proof.

The Chairman.— I do not want to crowd it any more than necessary.

Mr. Stedman.— I appreciate what counsel says. A situation of that kind is usually true.

The Chairman.— The proceeding stands adjourned until 10:30 to-morrow morning.

Whereupon, at 5:10 p. m. on January 28, 1920, a recess was taken until Thursday morning, January 29, 1920, at 10:30 o'clock a. m.

STATE OF NEW YORK — ASSEMBLY CHAMBER

In the Matter of the Investigation by the Assembly of the State of New York as to the Qualifications of Louis Waldman, August Claessens, Samuel A. deWitt, Samuel Orr and Charles Solomon to Retain Their Seats in Said Body.

THE CAPITOL,
ALBANY, N. Y., January 29, 1920

Present:

Hon. Louis M. Martin,
Hon. George H. Rowe,
Hon. James M. Lown, Jr.,
Hon. Edward A. Everett,
Hon. Edward J. Wilson,
Hon. Charles M. Harrington,
Hon. Harold E. Blodgett,
Hon. Theodore Stitt,
Hon. Louis A. Cuvillier,
Hon. Maurice Bloch,
Hon. William A. Pellet

Appearances:

For the Judiciary Committee:
John B. Stanchfield,
Elon R. Brown,
Charles D. Newton,
Harry F. Wolff,
Thomas F. Carmody,
Arthur E. Sutherland,
Samuel A. Berger,
Archibald F. Stevenson,
Martin Conboy.

For the Socialists:

Seymour Stedman,
S. John Block,
William Karlin,
Gilbert E. Roe,
Walter Nelles.

LOUIS M. MARTIN, Chairman.

(The Committee met pursuant to adjournment at 10:45 A. M.)

The Chairman.— Proceed.

Mr. Stanchfield.— I will read first, Mr. Chairman, into the record an article entitled “ Young Peoples’ Socialist Organizations ” from page 6 of the Socialist Congressional Campaign book of 1914.

“ Whereas —

Mr. Stedman.— Has that been offered in evidence or any portion of it ?

The Chairman.— I don’t know.

Mr. Stanchfield.— No, it has not.

Mr. Stedman.— I think it will be objected to until it is.

Mr. Stanchfield.— I said I was offering certain provisions from it. Of course, the ordinary rule, Mr. Chairman ; it ought not to be subject to discussion in a body of lawyers that a man may introduce from an exhibit any such portions of it as he pleases.

Mr. Stedman.— Pardon me, I didn’t know it had been marked as an exhibit.

Mr. Stanchfield.— It has not been marked as an exhibit. I am only going to read four or five sections. It is a voluminous

The Chairman.— Proceed.

Mr. Stanchfield.— I am willing to have it marked now.

(The book was received in evidence and marked Exhibit No. 38).

Mr. Stanchfield (reading) :

“ Whereas, the fertile and promising field for Socialist education is found among the young people, both because it reaches persons with unprejudiced and unbiased minds and because it yields the most valuable recruits for the Social movement, and whereas, if we can gain the ear of the majority of the youth of our country the future will be ours with the passing of the present generation ; therefore, be it resolved that we recommend and urge our locals to form,

encourage and assist young Socialist leagues and young peoples' clubs for the purpose of educating our youth in the principles of socialism, and that this education be combined with social pleasures and athletic exercises; and further resolved that we recommend the National Executive Committee give such aid and encouragement to this work as may seem to it best calculated to further the spread of socialism among the youth of the United States."

Mr. Stanchfield.—Then I read from page 5 of the same exhibit, No. 38, the section following paragraph 18 under the heading of "Political Demands."

"Such measures of relief as we may be able to force from capitalism are but a preparation of the workers to seize the whole powers of government, in order that they may thereby lay hold of the whole system of socialized industry and thus come to their rightful inheritance."

Mr. Stedman.—What page is this?

Mr. Stanchfield.—Page 5, Mr. Stedman. And now, I offer in evidence an issue published by the said committee of the Socialist party of Greater New York, the speech that was delivered by Mr. Debs on March 12, before the Socialist party of Cleveland.

Mr. Stedman.—I object to it. I do not see that anything that Mr. Debs might have said or might not have said in any way goes to the elements showing the qualification or disqualification on the part of the persons who are here on trial.

The Chairman.—We will not spend much time in discussing it now. The objection is overruled, and we will see what it is.

Mr. Stanchfield.—I only read the speech and I ask to have that marked Exhibit 39.

(The speech referred to above is marked Exhibit 39 in evidence of this date.)

Mr. Roe.—Does it appear on the record that the Campaign Book from which you read, Mr. Stanchfield, was published in 1914?

Mr. Stedman.—Yes, it so appears. He read it.

Mr. Stanchfield.—(reading):

“How true it is that there is a Divinity that shapes our ends, rough hew them how we will! It may seem strange to you, but in my plans, in my dreams, I did not think of going to the penitentiary—and I—I had a thousand times rather go there and spend my remaining days there than betray this great cause!

“So far as I am concerned, it does not matter much. The margin is narrow, the years between now and the sunset are few, and the only care that I have personally is that I may preserve to the last the integrity of my own soul and my loyalty to the only cause worth living for, fighting for, and dying for.

“It is so perfectly fine to me to look into your faces once more, to draw upon you for the only word I have ever had, the only word has ever come to me, the only word that I can ever speak for myself. I love mankind, humanity. Can you understand? I am sure you can.

“We are close of kith and kin, we are human and when we get into close touch with each other we come to understand that our good depends upon the good of all humanity.

“I am opposed to the system under which we live. I am opposed to the government that compels you, the great body of the American people, to pay tribute to an insignificant few who enjoy life while the great body of the people suffer, struggle, and agonize without ever having lived. Can you understand? I am sure you can.

“Let me get in touch with you for a while. I am going to speak to you as a socialist, as a revolutionist, and as a bolshevist, if you please.

“And what is the thing that the whole world is talking about? What is it that the ruling class power of the world are denouncing, upon which they are pouring a flood of all their malicious lies? What is it? It is the rise of the workers, the peasants, the soldiers, the common man, who for the first time in history said, ‘I have made what there is, I produced the wealth; I want to be heard.’

“Now, for the first time in history his bowed head lifted, he stands erect and is beginning in his grim strength to shake off the manacles, straighten himself in the sunlight, in his gigantic attitude, opening his eyes, beginning to see for the

first time, beginning to ask why it is why he must press his rags closer to his body, that he may not touch the rich man's costly silks that he himself produced — why it is that he must walk in alleys, while he is forbidden to enter the great palaces that he has erected — why it is that he must support all the banquets of the world that he may not taste.

“He is beginning to think. That is bolshevism! That is the revolution in Russia! That is the beginning of the end of capitalism and the end of the beginning of socialism!

“And because we say this they are going to put us in jail. With every drop in my veins, I despise their laws and I defy them. If the scriptures are true, Paul was sent to prison, and shortly afterward the prison doors were opened by an earthquake.

“The earth is beginning to shake beneath the feet of the profiteers.

“Have they outlawed the Red Flag here? The Red neck-tie? The Red socks? How perfectly foolish! Have you heard about the Pope in the middle ages forbidding the comets to appear? Why, the other day the chaplain in the House of Representatives asked God to give Congress wisdom!

“I am appealing to you tonight — the crowd, the mass — the common people — I do not care anything about the Supreme Court, begowned, befettered, bewhiskered old fossil corporation lawyers, every one of them — they have not decided anything; they never have; they never will.

“Sixty years ago the predecessors of the same body confirmed the validity of the fugitive slave law. They declared that a black man had no rights which his master was bound to respect. They imagined that chattel slavery was secure for all time; and within five years that infamous institution was swept from the land in a torrent of blood.

“They did not dare to meet the issue, they did not decide the espionage law was constitutional. They dared not put that decision upon record. Have you read that law? The amendment to that law that makes it a crime for you to criticise crime in the United States? That makes this country take the place of old Russia under the Czar?

“Have you ever read it? Know anything about it? Know that it is a gag upon your lips, fetters all your constitutional rights? That law — do I respect it? No!

"How perfectly fine it is to stand straight up and do what Wendell Phillips said: 'When they pass that kind of a law, put it under your feet.'

"Do not say a word against war — not one. That is treason — to the ruling classes. They make war; you do not; you never did. You paid all the bills, shed your blood, made all the sacrifices. You do not say a word. Have your limbs shot off, your eyes gouged out, gased, come back, and then hunt for a job.

"The finest thing I know is to carry yourself as a man — face humanity — look up into the sun and not feel ashamed of yourself; walk straight before the world, and live with it on terms of peace, look at yourself without a blush. Have you ever tried it? If you have, you are a bolshevist.

"The great world is in travail today. A great upheaval is shaking the foundation of capitalist society. The master class are driven to extremity. They are going to establish a League of Nations, to preserve the peace, to prevent war. What does it mean?

"Simply this: That the master class itself is staggered by the cost of modern war. Here are all these modern nations, great and powerful in economic and military ways, straining to harmonize their various conflicting interests. In theory it is perfectly fine; but how ridiculous it is to imagine for a moment that the interests of nations that are innately in conflict can be permanently harmonized.

"What does it mean? It is the last, desperate temporary expedient of the master class, the commercial interests, the economic interests, to prolong their sovereignty. Have you any views on it?

"Who is it that is making the terms of peace? Is it not strange that the great, common people who shed their blood, fought the war, made the sacrifices, should have no voice in making the terms of peace? The working class — the working class, which for one thousand years constituted the slaves, the tragedy of history — I recall it as I speak, I can see across all the centuries, the patricians of ancient Rome in the amphitheatres, while they poured their slaves into the Coliseum to destroy them for pastime — and through the Middle Ages, how the serfs were killed for their profit and glory — to all that I can see the working class, that youth, the victims of the ages, the martyr of the centuries, you who

went to war when it was declared, you who were in the trenches, you who shed your blood like water, you who suffered the agony that human speech can never tell, you who had your limbs torn from your bodies — you have no voice in that peace conference, no representation there.

“Just one second-hand one, Sam Gompers. The other day Sam, four-foot Sam, was banqueted by a seven-foot Russian duke, and the duke was in poor company.

“The world is in turmoil. Where is your representative; where did you elect him? What did you have to say about these terms? Not one real representative, but politicians and diplomats and thieves and liars, the tools of your masters — that is who is here.

“They are going to make the world perfectly safe for democracy, and that is why I am going to the penitentiary.

“You can think a bit, and I want to stir you into thought and action. We are on the eve of tremendous developments. The world before your eyes is being destroyed and recreated. Russia is making a beginning, the Soviet is just a sample. They have shed some blood, they have made some mistakes, and I am glad they have. When you consider for a moment that the ruling class press of the world has been villifying Lenin and Trotzky, you can make up your mind that they are the greatest statesmen in the modern world. In that brief space of time they have done more than all the capitalist governments have ever dared to do in constructive work. They have refused to compromise. They said to the old reactionaries, ‘You will not have any voice in the government until you do useful work.’

“In every previous revolution it was said that the working class was not ready. Russia did not know that it was ready; that is the trouble with the working class of the world.

“What have they done? They have given the franchise to men and women all over the Republic. They have inaugurated many beneficent changes. They have said, ‘We do not want the recognition of the United States, or of any capitalist government.’ That is fine, inspiring, I applaud it with all my heart.

“In Germany the same spirit is at work to-day. We do not know, we cannot tell; the despatches are meager. And so it is in Bohemia, Bulgaria, Hungary, England, France, and in the United States of America. ‘They are going to

suppress the Red Flag; you may not carry a flag except under your vest.' That is the level of their statesmanship. Aren't you proud of it?

"In Germany — do you know what is going on there? In spite of all opposition, the Spartacans, the heroic followers of Karl Liebknecht and Rosa Luxembourg, the most magnificent and heroic figures in Europe in modern history — they are dead, but the revolution lives, and their magnificent souls go marching on.

"At the beginning they said that the Bolsheviks had ruined and bankrupted the country of Russia, and in the next breath we read that they are financing the revolution everywhere. The daughter of Trotsky stole 50,000,000 rubles, and Trotsky never had a daughter. The wife of Lenin went to Italy with trunks loaded with gold, and she never has been in Italy in her life.

"Is there a lie they have not told? Is there a calumny which they have not circulated about Lenin and Trotsky?

"They are fighting for your liberty, for you, if you only know it, and I am only too glad to pay my tribute to those men I love. Along this line Congress is making an investigation. The Overman Committee has discovered that there is some Bolshevik agitation in the United States. It is to be ended by deporting, without trial, without hearing, 46 of our working people.

"How perfectly brutal and infamous and disgusting an example of how capitalism treats its workingmen. Compare the hard, horny palms of those who are to be deported with the lily white hands of the deporters. You can see the difference. The deported were the producers. If they are to be sent abroad, I want to go with them!

"What you and all of us need in this hour of trial and travail is working class solidarity.

"We need to unite. We need to get together. We need to feel the common touch. We need to recognize our kinship. The world is against us if we are not for ourselves. Through the history of the ages you have been oppressed, you have been downtrodden, you have been exploited, you have been degraded. When you go for a job to the master class you work under conditions they prescribe. You depend upon them for work. You work for their benefit. Do you like this? This is capitalism.

"The system in which you enrich your master and impoverish yourselves, the system under which five per cent of the people own the wealth of the country and the great body of the people struggle through all their years for an existence and pass away without ever having enjoyed one hour of real life.

"How pathetic and tragic it is that in our land, with its boundless resources and treasures, its machinery, its workers, everything for production for every man, we have in the midst of all these benefits the great body of the people struggling for existence?

"How foolish it is to vote for the perpetuation of such a system? Yet that is exactly what you do when you vote the Republican or the Democratic ticket or any ticket except the Socialist. While you are doing this the master class looks upon you with sovereign contempt.

"You who produce everything, you who really create, you who are conserving civilization — is it not humiliating to you, the bottom class, the lower order? That is the system that you support or help to destroy by your vote.

"I appeal to you just once to stand perfectly erect in the majesty of your humanity. You owe it to yourself.

"Look into the eyes of your brother and see the new light that is shining for the working class. We have been oppressed, we have suffered, we have agonized, and now let us unite and stand together against capitalism. That is the plea I am making to-night.

"I do not desire to make any glowing periods. I wish I could read your hearts to-night, your attitude of soul.

"Let us unite industrially. If Germany had been organized industrially this great calamity would have never come.

"These crimson flowers that have just been presented to me represent the springtime, the springtime of revolution. I have faith in it and in humanity; I have faith in the Man of Galilee. Twenty centuries ago He spoke to the common people and they heard Him gladly. He was brought before the scribes and the Pharisees and the priests and the doctors and the lawyers and the judges. They said 'He is preaching dangerous doctrines, He is a bolshevist.' They hung him on a cross near Jerusalem, as a warning to the centuries. But ever since there have been men

and women of moral courage who dared to speak the truth as they saw it, who have been maligned and persecuted; they have been stoned and burned at the stake; their ashes scattered to the four winds. These men are remembered and it is to them that we owe our progress.

"Remember that George Washington was denounced as an unprincipled scoundrel; Jefferson was said to be a violent fanatic; Samuel Adams a dangerous character; Patrick Henry was an incendiary.

"A little later there was a group of abolitionists who fought against an institution which had existed for 250 years in this country. Abolitionism was the Bolshevism of that day. These men were ridiculed. To-day they are honored, while the smug, respectable people of their day lie buried and forgotten.

"The great working class movement will similarly triumph. Its emancipation from the ruling class must come soon.

"In every country of the world the capitalist class has used the war and the possibility of persecution in the name of patriotism that war times afford for a concerted attack upon its most hated enemy, the class-conscious working class. Nowhere were real traitors, nowhere were those elements that directly served the enemy nation, so relentlessly pursued as those who dared to demand rights for the working class. In every country the labor agitator was more feared than the spy, the man who demanded the restoration of the elementary rights of the people more bitterly persecuted than he who openly expressed his sympathy with the cause of the enemy nation.

"In this, America has been no exception. Hundreds upon hundreds of political and class war prisoners are in our jails, because they dared to say what they thought about the causes of the war and the actions and motives of our ruling class. Hundreds are serving ten and twenty-year sentences, because they belonged to labor organizations that refused to relinquish the right of the working-class to fight for better conditions, for better wages, and shorter hours. Hundreds of young men are languishing behind prison bars because they refused to betray their own conscience by rendering military service. In the eyes of capitalism, man or woman can commit no greater crime than to espouse the cause of the working class.

"And in the same measure as they have been sacrificed because they have served their fellows of the proletariat, it is the duty of the working class of this country to fight for their release. They have fought our battles, they have spoken our opinions, they have conducted our fight. It is up to us, to the working men and women of the country to demand their release, to demand it insistently, unmistakably, in a great movement that will command the attention and the respect of those who sent them there."

Mr. Stedman.— I think the first part should be read.

Mr. Stanchfield.— Well, I have one observation to make. The ordinary procedure and conduct in a case of this kind — I do not care anything about the fore part of that — if it is claimed to be explanatory of anything that has gone in, it depends entirely on the attitude of mind of the Committee. In some tribunals that would go in now; in other tribunals it would go in when they take the case.

This speech was delivered March 12th, before the Socialist Party, in Cleveland, Ohio.

The Chairman.— That is read in evidence and Mr. Stedman may read his part of it.

Mr. Stedman.— Will you read, Mr. Block?

Mr. Block.—(reading): The Exhibit is entitled:

"Eugene Victor Debs, the Champion of the American Working-Class. His Last Speech before His Voice was Silenced.

"Eugene V. Debs, to-day undoubtedly the best loved and most admired leader in the American Labor Movement, first attracted public attention during the great Pullman strike, that for a time threatened to disorganize the entire railroad industry of the country. That memorable strike began in the City of Pullman, near Chicago, where the famous palace car builder, Pullman, had established a 'model town' for his employes, forcing them to live in company houses, to buy in company stores, under conditions that made every Pullman worker the eternal debtor of the company. When, in spite of these intolerable conditions, the company attempted a decrease in wages, the long suffering workman revolted. They refused to submit to the reduction and were locked up.

All efforts to persuade the company to submit the matter to arbitration were in vain.

"In 1894 the American Railway Union, an organization of railway workers that had come into existence the year before, through the tireless efforts of Eugene V. Debs to unite the various existing bodies of organized railroad men in different parts of the country into a virile, effective fighting union, took up the fight, and decided to refuse to work on trains that carried a Pullman car. Under the leadership of Debs the fight was conducted with such whole-hearted enthusiasm that within a few days all railway traffic about the larger centers of the West and Middle West practically came to a standstill. Victory for the Railway Union seemed assured, when the United States Courts, at the behest of the Railway Companies, issued instructions forbidding the continuation of the boycott of Pullman car trains. Upon the protest of Governor Altgeld, President Cleveland sent troops to Illinois, and practically placed the entire territory involved in the strike under martial law. Debs and a number of other strike leaders were indicted. 'It was not the railways, nor the minds that beat us,' Debs testified later, 'but the power of the United States Supreme Court.' In September of the same year Debs was tried on a charge of contempt of court, and sentenced to six months in Woodstock jail.

"But the events of the strike had taught Debs a lesson that he never forgot. They showed him that, in every struggle against the working class, capitalism presents a solid front against the laboring class, that the government, in every such struggle, stands with the enormous powers of its armies and its courts on the side of organized capital, against the forces of labor. Debs went into Woodstock jail because he had led his class in revolt against industrial oppression. He came out a confirmed Socialist, because he realized that the struggle of the working class against capitalist oppression cannot be won until the working class has captured the entire machinery of government that to-day is the greatest weapon in the hands of its enemies, until it has taken control of the means of production, to use them for its own interests.

"Since then 25 years have passed, and during that quarter of a century Debs has given every day of his life to the

struggle of the proletarian masses. No man in the American Labor Movement has rendered more faithful service, no man has given himself more unselfishly, no one has won more love and devotion from the American working class, than the man who has just been sentenced by a United States Court to ten years in jail under the Espionage Act. Three times he was Presidential Candidate of the Socialist Party. Whenever he spoke, whenever his name was announced, he drew enormous audiences in every part of the country. His articles in the Socialist press, his messages to the working class were always filled with a wealth of sympathy and understanding. For the secret of Debs' greatness lies in the fact that he understands not only the great struggles of his fellow workingmen, but their small, everyday cares and worries as well, that he is not merely their political leader, but their truest, most faithful friend, that he was and always will be one of them.

"Men like Eugene V. Debs cannot be silenced by persecution and jail sentences. Every attack from the enemy strengthens their determination to carry on the cause for which they have been made to suffer, every day behind prison walls strengthens their determination to give themselves without reserve to the revolutionary struggle of the working class. And so Eugene V. Debs, face to face with what to him means a life sentence in jail, has sent to the working class of the United States, to you and to all of us, an appeal that will sound and resound in the hearts of American Labor when his voice has been silenced."

Mr. Stanchfield.—I now offer in evidence two exhibits, being the Constitution of the World's First Socialist Republic, and the decrees and constitutions of Soviet Russia, which will be numbered 40 and 41.

(The Constitution of the World's First Socialist Republic marked Exhibit 40 in evidence of this date.)

(The Decrees and Constitution of Soviet Russia received and marked Exhibit 41 in evidence of this date.)

Mr. Stanchfield.—I do not purpose, Mr. Chairman, to read all of these exhibits, but I do propose to read into the record certain excerpts from them.

Mr. Roe.—Will you give me the numbers of those, Mr. Stanchfield?

Mr. Stanchfield.—40 and 41. The one in newspaper shape is 40, and the book is 41.

Mr. Roe.—What is the document?

Mr. Stanchfield.—The decrees and constitution of the First Socialist Republic of Russia. I read first Article 4 from the Constitution on the right to vote.

(Note: After discussion of the record, the Chairman instructed the reporters to insert in the record a copy of the entire Exhibit No. 41, and not to indicate where speakers read certain portions of this exhibit.)

(Exhibit 41 is copied in the record. See index.)

Mr. Stedman.—I do not think that those living upon profits constitute a majority of the Russian population; so they could not substitute minority rule for majority if they gave the power to those who had property.

The Chairman.—Excuse me for interrupting you. Proceed. (Mr. Stedman continues to read from Exhibit No. 41, which is copied in the record). In other words, if they have a local Soviet, like a state organization, that state organization elects by popular vote its members. They in turn elect to a General Congress, called an All Soviet. That General Congress has two hundred and a fraction members. They in turn elect a General Committee. That General Committee, in turn, elects a General Committee. We then have the general form of the government in Russia.

Mr. Evans.—May I ask a question?

Mr. Stedman.—Yes.

Mr. Evans.—May I inquire if the basis of representation in the All Russian Congress is one delegate for twenty-five thousand voters, and for rural districts, one delegate for every one hundred twenty-five thousand?

Mr. Stedman.—You mean the point I read last?

Mr. Evans.—I thought you read that, that the All Russian Congress, according to the Constitution—

Mr. Conboy.— Paragraph 25, chapter 6.

Mr. Stedman.— It provides that the All Russian is composed of one delegate for 25,000 voters, and in representation to the provincial congress of Soviets, one delegate for 125,000.

Mr. Conboy.— Mr. Stedman, have you read that correctly? Not that I wish to impugn your statement.

Mr. Stedman.— I will read 25 again.

The Chairman.— The only suggestion the Chair has about all this matter is — possibly I may have the wrong angle — assuming all that is true, if the people think it is the best government in the world, they will vote to adopt it?

Mr. Stedman.— Yes.

The Chairman.— The question is, Are you trying to force that government on us?

Mr. Cuvillier.— That 's it.

The Chairman.— If the majority of the people of the State vote that government, I have got to live under it?

Mr. Stedman.— I hope so.

The Chairman.— Go ahead.

(Mr. Stedman continues to read from Exhibit No. 41, section 25.)

Mr. Stedman.— Have I read it correctly?

Mr. Conboy.— Yes. You had read before that there was one delegate "to."

Mr. Stedman.— It should have been "from". In other words, in the State of New York your representation is one in your house for every 25,000, but when they go into the national congress there is only one representative for 125,000.

Mr. Conboy.— No. one representative for every 25,000 inhabitants of a city.

The Chairman.— The Chair does not want to hear those questions discussed. They are immaterial.

(Mr. Stedman continues to read from Exhibit No. 41.)

Mr. Stedman.— I might give to the stenographer the pages and we can comment on it in the argument.

Mr. Stanchfield.— Well, the whole volume is in evidence.

Mr. Stedman.— Well, it would not be printed.

Mr. Stanchfield.— Yes, it would.

Mr. Stedman.— Very well, if the entire volume is in.

Mr. Block.— There are one or two paragraphs I would like to read.

The Chairman.— If Mr. Block reads certain further paragraphs, I do not want the whole volume again recorded in the minutes. If they copy that entire book in the minutes twice, it will lumber your record so that no Committee can read it.

Mr. Stedman.— Suppose you strike out, Mr. Stenographer, everything that I have said to the Committee, and simply insert the book.

The Chairman.— On Mr. Stedman's suggestion, he is going to stop where Mr. Stanchfield stopped off reading, and that will obviate the further reading from the book.

Mr. Stanchfield.— Yes, I realize their right to quote certain portions in an argument.

Mr. Block.— I want to read certain portions.

The Chairman.— If the whole book goes in, I do not see the need of reading certain paragraphs of the book, when it all is copied in.

Mr. Block.— Mr. Chairman, Mr. Stanchfield has read certain paragraphs; they have been published here before the Committee and before the Press, and I feel we should be permitted to read as much as he did.

The Chairman.— The ruling of the Chair is that the book may be copied in evidence from this point, and no further reading will be allowed.

Mr. Block.— Does that seem fair, inasmuch as Mr. Stanchfield has read certain portions?

The Chairman.—Mr. Block, the Committee has ordinary intelligence.

Mr. Block.—I admit all that.

The Chairman.—Proceed.

ALGERNON LEE, called and sworn as a witness, testified as follows:

Direct examination by Mr. Sutherland:

Q. Your name is Algernon Lee, is it? A. Yes, sir.

Q. Where do you reside, Mr. Lee? A. 1186 Madison Avenue, New York.

Q. Where were you born, Mr. Lee? A. In the city of Dubuque, Iowa.

Q. How long have you lived in New York? A. A little more than twenty years.

Q. Are you a member of the Socialist Party of America? A. I am.

Q. How long have you belonged to that Party? A. Since its formation, and to the Socialist Labor Party out of which it grew, since 1895.

Q. I have been requested to ask if you are a taxpayer in the State of Connecticut? A. I am not.

Q. Are you an officer of the Socialist Party of America? A. Of the National Organization. I am not.

Q. Have you any official relation to the Party as a party? A. In the State of New York I am Treasurer of the State Commission and Secretary of the New York County Committee.

Q. How long have you occupied that relation? A. I really cannot answer; I don't know definitely; I could ascertain that.

Q. For several years? A. I believe so, yes, for several years.

Q. Have you ever held an office in the National Organization of the Socialist Party? A. I have. A number of years ago I was for several years a member of the National Committee. That was a larger Committee than we have at the present time.

Q. How many members are there of the National Committee at present? A. At present there is a National Executive Committee of seven members.

Q. Did you attend the National Convention of the Party at St. Louis in March and April of 1917? A. I did.

Q. Did you attend the Chicago Convention of the Party in September, 1919? A. I did.

Q. Do you have any relation to the Rand School? A. I have been connected with it for the last ten years as its educational director.

Q. There is a corporate organization, is there not, called the American Socialist Society? A. Yes, sir.

Q. Is that a corporate body? A. I believe it is what is called a membership corporation; I think I am right in my phrase.

Q. Organized under the laws of the State of New York? A. Organized under the laws of the State of New York.

Q. Is that the corporate body which operates the Rand School? A. It is.

Q. How long has that corporate body operated the Rand School? A. Since 1906.

Q. The school is located where? A. At present at 7 East 15th Street.

Q. In the city of New York? A. In the city of New York.

Q. And has it been located there for some years? A. For more than two years; it was formerly in 19th Street.

Q. When was it incorporated? A. If I remember rightly, the society was incorporated in 1901. It was some years before the foundation of the school.

Q. Then when we speak of the American Socialist Society and speak of the Rand School we shall understand each other as meaning the same thing? A. Well, they are closely connected; I wouldn't say they are the same thing.

Q. The American Socialist Society operates the Rand School? A. Operates the Rand School; yes, sir.

Q. Does it own the physical property which is there? A. I suppose that it does.

Q. You have no knowledge of any other ownership of the Rand School properties and effects? A. No.

Q. Then the American Socialist Society? A. It is the owner of the Rand School.

Q. I show you a pamphlet or bulletin which I will ask to have marked for identification.

(Marked Exhibit 42 for Identification).

Q. I show you Exhibit 42 for Identification. This is called Bulletin for 1919-1920, Rand School of Social Science. Is that a bulletin or publication issued by the American Socialist

Society? A. Yes, sir; it is the regular annual announcement of the Rand School.

Q. May I call your attention to a sentence on page 1 of Exhibit 42 for Identification: "The School's function and scope. The Rand School is primarily an auxiliary to the Socialist Party with the declared function of offering the general public facilities for the study of Socialism and related subjects and giving to Socialists instruction and training calculated to make them more efficient workers for the cause." Is that a correct statement, Mr. Lee? A. I consider it so, yes, sir.

Q. Mr. Lee, you have stated that the American Socialist Society is a membership corporation; do the members pay dues? A. They do.

Q. How many members have you? A. I cannot say that; I do not know.

Q. About how many, approximately? A. It may be 100, it may be more than 100, it may be less, I don't know; I am not an officer of the Society.

Q. Would you say 100 as the best of your judgment? A. It would be a pure guess.

Q. You have some idea, better than I have, certainly, whether it is a small group — A. It is undoubtedly nearer to a hundred than to a thousand, but how much near to a hundred I don't know.

Q. That will suit our purpose; I will not ask what the dues are unless you care to say. A. I am perfectly willing to say.

Q. What are they? A. Two dollars a year.

Q. Out of dues of two dollars a year with a membership of 100 you wouldn't have a very large fund? A. Not very large.

Q. Now, what other sources of income has the American Socialist Society? A. In the first place, students attending classes in the Rand School of Social Science pay a small tuition fee. These fees pay only a small portion of the expenses, but they form an element in the income.

Q. Have you an endowment? A. We had an endowment which I am informed is practically extinct, has yielded little or nothing for some years past.

Q. What was the endowment?

Mr. Stedman.—I will object to it. I am objecting to it, because I cannot see how any persons paying on stock, paying a tuition fee, or giving money to the Rand School, is directly or indirectly a qualification for entrance into the legislative body

of the State of New York. I cannot understand how, as suggested by the Committeemen, if I send ten dollars to the Rand School that that is part of the conspiracy of the National political Party in which these persons have joined for the purpose of overthrowing by physical force the government of the United States.

Mr. Sutherland.— It was only, Mr. Chairman, to show that this school, this Society operating the school was not an ephemeral, negligible thing, but a strong, virile continuing organization with the munitions of war, so to speak.

Mr. Stedman.— I agree it is a strong, virile, educational institution.

Mr. Sutherland.— Very good.

Mr. Stedman.— And we wish it was a thousand times more so, but the fact that it is a vital educational institution is quite different from showing that it is part of a general scheme to shoot out of existence by physical force the government of the United States.

The Chairman.— I don't know what their theory is about that, but wouldn't it take longer to hear you gentlemen on it than it would to hear it? We cannot lumber up that record, Mr. Stenographer. Strike all that out.

Mr. Stedman.— I insist that my objections go into the record.

The Chairman.— All right.

Mr. Sutherland.— It makes a difference whose vitals they are working toward.

Q. Has the Rand School been recognized by the Socialist party at the National Convention held in Chicago in August, 1918?
A. Yes, sir.

Q. I call your attention to paragraph No. 11 in Exhibit No. 42, and ask you if that, to your knowledge, is a correct copy of the resolution endorsing the Rand School? A. It is, sir.

Mr. Sutherland.— I would like to read this, Mr. Chairman.

The Chairman.— Proceed.

Mr. Sutherland (reading):

“Whereas, the Rand School of Social Science in New York City, now in its 13th year of existence, is administered by

members of the Socialist Party and conducted in the interest of the Socialist movement in this country; and

"Whereas, the removal of the Rand School to the recently acquired People's House has enabled the School to expand and improve its educational facilities; and

"Whereas, The record of the school as an educational agency of our movement is proved by the many young men and women who have been graduated from the school and are now in active service of our party, be it therefore,

"Resolved, that we, State Secretaries, Secretaries of the Foreign Language Federations, members of the National Executive Committee, and other party officials, in conference assembled, urge the various subdivisions of the Socialist party to take advantage of the educational opportunities offered by the Rand School, by the establishing of scholarships for needy and promising men and women in our party, and direct to the school others who can afford on their own account to take up work at the school and there train themselves for better service in the cause of socialism in this country."

By Mr. Sutherland:

Q. Is Mr. Claessens, assemblyman-elect, an instructor in that school? A. He is.

Q. What is his department there? A. He has charge of the instruction in public speaking.

Q. Is he not also an instructor in socialism? A. And also in fundamentals of socialism.

Q. Is Mr. Solomon a lecturer sent out by your school? A. No, sir.

Q. Was he ever a lecturer sent out by your lecture bureau of the Rand School? A. Oh, it is quite possible that engagements may have been made for him. If you will permit me —

Q. Yes? A. To make a distinction —

Q. Yes? A. It is quite possible that engagements may have been made for him as for many others through the lecture bureau, which is carried on in the Rand School; but my answer was that he was not a lecturer for the Rand School. He has never lectured, so far as I know, for the School.

Q. May I show you this card, and ask you whether that refreshes your memory and can clear it up in any way? A. This is the card of the Rand School that makes the arrangement for the booking bureau.

Q. And they are listed under the head "Lecturer in 1919, May 16th"; is Mr. Claessens' name on there? A. Yes, Mr. Claessens has undoubtedly also been booked by the lecture bureau.

Q. And he was booked on several occasions in May and June, of this year, was he not? A. He was, yes, sir; as many others.

Q. Does Mr. Solomon get bookings in the same way? A. I think it quite likely; I would not know about that, because I do not myself conduct the lecture bureau.

Q. Let me show you this blue card and see if this does not indicate that Mr. Solomon was on the list of lecturers in 1919, in July? A. This indicates that Mr. Solomon was booked through the lecture bureau; it does not indicate that he was on the list of lecturers in the Rand School.

Q. You just did the booking for him, and didn't you vouch for him as a lecturer, then? A. I haven't any doubt myself that we would be willing to vouch for Mr. Solomon, but that does not constitute a voucher. We book lecturers who are Socialists, anti-Socialists, debaters against socialism as well as those who represent our point of view.

By the Chairman:

Q. You hear all sides of the question? A. So far as this lecture bureau is concerned, it makes arrangements for organizations who come to us desiring us to help them in getting speakers and lecturers, and sometimes debaters. We naturally help them to get speakers on both sides of socialism, and other special subjects, as they are concerned with. This is something quite different from our classes and lecture courses in the Rand School, or in any branch of the Rand School or courses in the Rand School.

By Mr. Sutherland:

Q. Mr. Claessens is on the teaching staff, and his name appears in your list of instructors? A. Yes, sir.

The Chairman.—He is one of the faculty.

Mr. Sutherland.—Yes. I offer in evidence at this point the record of conviction of the American Socialist Society for a violation of the Espionage Act.

Mr. Stedman.—I am objecting to it for the reason that the case is pending on appeal, and it is incompetent to offer any record of a court showing an adjudication of an undetermined proceeding, which the judge well knows.

Mr. Sutherland.— Well, I know nothing of the kind. Here is a judgment of a court of record. It is perfectly competent.

The Chairman.— Now, the record may show that the record of conviction may be received, and also the statement of Mr. Stedman that the defendants in the record have appealed from the conviction, and that the matter is still before the Appellate Division —

Mr. Bloch.— No, the United States Circuit Court of Appeals of the United States, and the appeal has not been determined.

Mr. Sutherland.— And we will mark the record in evidence, Mr. Chairman.

The Chairman.— Yes.

Mr. Sutherland.— It consists of two documents.

(The documents above referred to were received and marked Exhibits 43 and 44, in evidence of this date.) .

Mr. Stedman.— My further objection is: That a conviction of a corporation for the issuing of a book, or pamphlet, is not evidence against a stockholder or a member of that institution indicating any criminal intent on the part of such stockholder or member in the absence of proof showing that they had participated in its publication.

Mr. Sutherland.— We will argue the force and effect later.

Mr. Stedman.— I am calling attention to a primary rule of evidence.

The Chairman.— You would not want the Chair to adopt the rule here which would be authentic in the State of New York that the conviction of a corporation would convict all of the stockholders?

Mr. Stedman.— That is what you are adopting here, and I apprehend you would not get any court to proceed on the theory that you can send stockholders to jail because a publishing company published a single article.

Mr. Sutherland.— I ask this smoke screen be eliminated, Mr. Chairman.

The Chairman.— The objection is overruled, and an exception noted to Mr. Stedman. We will take it for what it is worth.

Mr. Stedman.—And I want to suggest also to the distinguished counsel that I do not think personalities are necessary. I can either try this case like a lawyer or a ruffian, and you can select your own method.

The Chairman.—I do not like these things. Members of the Bar should be entirely courteous to each other, especially in a proceeding of this kind. I do not approve of it at all, Judge.

Mr. Stedman.—An exception to the ruling is noted.

Mr. Sutherland.—The counsel misstated the position which we take in offering in evidence this conviction. He stated that I knew and every lawyer knows that a judgment of conviction from which an appeal has been taken is of no force as evidence.

Mr. Stedman.—I said any lawyer, sir.

Mr. Sutherland.—Then I will take issue with you on that proposition. The personalities begin there, Mr. Chairman.

Now, Mr. Lee. . . .

The Chairman.—You gentlemen are getting back towards the Justices' courts.

Mr. Stedman.—I regret it, sir.

The Chairman.—I do too.

Mr. Stedman.—He started it.

By Mr. Sutherland:

Q. Now, Mr. Lee, to take up the thread of the testimony begun, is this American Labor year book for 1917 and 1918 one of the publications of the Rand School? (Witness shown book.) A. It is.

Q. You were at the convention of the Socialist Party at Chicago in 1917, in March and April, were you? A. At St. Louis, you mean.

Q. At St. Louis, pardon me. A. I was.

Q. I want to call your attention to two or three references in this American Labor Year Book of the proceedings of that convention. First of all, I will ask to have this year book marked for identification.

(The book was received and marked Exhibit 45 for identification.)

Q. This has been marked for identification. I will offer it in evidence if the Committee would like to have it.

The Chairman.— Refer to what you like.

Mr. Sutherland.— We will have it marked as an exhibit in its entirety, then.

Let us consider that Exhibit 42 for identification is in evidence in its entirety, any part to be read by counsel.

(The book was received in evidence and marked Exhibit 42.)

Mr. Sutherland.— I call your attention to a report of the Committee on War and Militarism of the St. Louis Convention which appears on page 50 of the book marked Exhibit 42 for identification and I will ask you if you were on the Committee that made that report? (Witness shown book.) A. I was.

Q. Is that a correct reprint of that Committee's report? A. Why, from a general glance, it seems to be. I cannot say whether there may be any errors without reading it.

Q. Was that report adopted by the convention? A. It was.

Q. This copy of it has been carried in your year book without question as to its accuracy, has it not? A. So far as I know.

Q. And this year book is published by the — A. By the Rand School.

Q. By the Rand School of Social Science? A. Yes, sir.

Q. On the title page it says this book is edited by Alexander Trachtenberg, director of the Department of Labor Research of the Rand School of Social Science? A. That is correct.

Q. You would naturally rely upon his good care and accuracy in publishing that, would you not? A. I haven't any doubt as to its correctness.

Mr. Stedman.— What does that refer to?

Mr. Sutherland.— The Socialist Party in the war. I desire to read that in evidence. (Reading.)

“The Socialist Party of the United States in the present grave crisis solemnly reaffirms its allegiance to the principle of Internationalism and working class solidarity the world over and proclaims its unalterable opposition to the war just declared by the government of the United States.”

Q. War was declared April 6, 1917, was it not, Mr. Lee? A. That is my memory.

Q. Do you remember how long after that it was that this majority report was adopted by that convention? A. I cannot say exactly. It is likely that the book will show.

Mr. Stedman.— April 7th.

By Mr. Sutherland:

Q. The convention was in session? A. It was within a few days; no question about it.

Q. Yes.

“Modern wars as a rule have been caused by the commercial and financial rivalry and intrigues of the capitalist interests in the different countries. Whether they have been frankly waged as wars of digression or have been hypocritically represented as wars of ‘defense,’ they have always been made by the classes and fought by the masses. Wars bring wealth and power to the ruling classes, and suffering, death and demoralization to the workers.

“They breed a sinister spirit of passion, unreason, race hatred and false patriotism. They obscure the struggles of the workers for life, liberty and social justice. They tend to sever the vital bonds of solidarity between men and their brothers in other countries, to destroy their organizations and to curtail their civic and political rights and liberties.

“The Socialist Party of the United States is unalterably opposed to the system of exploitation and class rule which is upheld and strengthened by military power and sham national patriotism. We, therefore, call upon the workers of all countries to refuse support to their governments in their wars. The wars of the contending national groups of capitalists are not the concern of the workers. The only struggle which would justify the workers in taking up arms is the great struggle of the working class of the world to free itself from economic exploitation and political oppression, and we particularly warn the workers against the snare and delusion of so-called defensive warfare. As against the false doctrine of national patriotism we uphold the ideal of international working class solidarity. In support of capitalism, we will not willingly give a single life for a single dollar; in support of the struggle of the workers for freedom we pledge our all.

“The mad orgy of death and destruction which is now convulsing unfortunate Europe was caused by the conflict of capitalist interests in the European countries.

“In each of these countries, the workers were oppressed and exploited. They produced enormous wealth but the bulk of it was withheld from them by the owners of the industries. The workers were thus deprived of the means to repurchase the wealth which they themselves had created.

“The capitalist class of each country was forced to look for foreign markets to dispose of the accumulated ‘surplus’ wealth. The huge profits made by the capitalist could no longer be profitably reinvested in their own countries, hence they were driven to look for foreign fields of investments. The geographical boundaries of each modern capitalist country thus became too narrow for the industrial and commercial operations of its capitalist class.

“The efforts of the capitalists of all leading nations were therefore centered upon the domination of the world markets. Imperialism became the dominant note in the politics of Europe. The acquisition of colonial possessions and the extensions of spheres of commercial and political influence became the object of diplomatic intrigues and the cause of constant clashes between nations.

“The acute competition between the capitalist powers of the earth, their jealousies and distrusts of one another and the fear of the rising power of the working class forced each of them to arm to the teeth. This led to the mad rivalry of armament, which years before the outbreak of the present war had turned the leading countries of Europe into armed camps with standing armies of many millions, drilled and equipped for war in times of ‘peace.’

“Capitalism, imperialism and militarism had thus laid the foundation of an inevitable general conflict in Europe. The ghastly war in Europe was not caused by an accidental event, nor by the policy or institutions of any single nation. It was the logical outcome of the competitive capitalist system.

“The six million men of all countries and races who have been ruthlessly slain in the first thirty months of this war, the millions of others who have been crippled and maimed, the vast treasures of wealth that have been destroyed, the untold misery and sufferings of Europe have not been

sacrifices exacted in a struggle for principles or ideals, but wanton offerings upon the altar of private property.

“The forces of capitalism which have led to the war in Europe are even more hideously transparent in the war recently provoked by the ruling class of this country.”

The Chairman.—The Chair desires to announce—I think I can do that safely—as far as the Committee is concerned, the Chair will announce that when there is a discussion in the Committee that the Committee deems proper to publish, we will publish it or notify the press. Up to the present time we have seen no sort of dissensions worthy of any person becoming excited about. As far as the publicity of this Committee is concerned, this Committee has not taken any active part in any publicity, and does not intend to. We have even gone so far, most of us, as to refrain from reading the papers—personally I have—so as to try to make a report on the evidence presented before us, not on matters entirely outside. I say this so as to clear up any possible misunderstanding that may have crept in with regard to these proceedings. I think that is proper.

Mr. Block.—Are you going to take up that publicity matter now?

The Chairman.—In the executive session.

Mr. Block.—Are you going to ask whether they know anything about the publicity committee, ask counsel?

The Chairman.—We will take that up in the executive session. We will now adjourn until 2 o'clock P. M.

(Whereupon, at 12:40 P. M., a recess was taken until 2 o'clock P. M.)

(After recess, the Committee met pursuant to adjournment at 2:10 P. M.)

AFTER RECESS

The Chairman.—Proceed.

ALGERNON LEE resumed the stand:

Mr. Sutherland.—I resume the reading, Mr. Chairman and

gentlemen, of the platform of the Socialist party, the resolution of the Socialist party on the war (reading):

"When Belgium was invaded, the government enjoined upon the people of this country the duty of remaining neutral, thus clearly demonstrating that the dictates of humanity, and the fate of small nations and the democratic institutions were matters that did not concern it. But when our enormous war traffic was seriously threatened, our government calls upon us to rally to the defense of democracy and civilization."

(The words "dictates of humanity," "defence of democracy and civilization," being in quotation marks.)

"Our entrance into the European war was instigated by the predatory capitalists in the United States who boast of the enormous profit of seven billion dollars from the manufacture and sale of munitions and war supplies and from the exportation of American food stuffs and other necessities. They are also deeply interested in the continuance of war and the success of the allied arms through their huge loans to the governments of the allied powers and through other commercial ties. It is the same interests which strive for imperialistic domination of the Western Hemisphere.

"The war of the United States against Germany cannot be justified even on the plea that it is a war in defense of American rights or American honor.

("Honor" being in quotation marks.)

"Ruthless as the unrestricted submarine war policy of the German government was and is, it is not an invasion of the rights of the American people, as such, but only an interference with the opportunity of certain groups of American capitalists to coin cold profits out of the blood and sufferings of our fellow men in the warring countries of Europe.

"It is not a war against the militarist regime of the central powers. Militarism can never be abolished by militarism.

"It is not a war to advance the cause of democracy in Europe. Democracy can never be imposed upon any country by a foreign power by force of arms.

"It is cant and hypocrisy to say that the war is not directed against the German people, but against the imperial government of Germany. If we send an armed force to the

battlefields of Europe, its cannon will mow down the masses of the German people and not the imperial German government.

"Our entrance into the European conflict at this time will serve only to multiply the horrors of the war, to increase the toll of death and destruction and to prolong the fiendish slaughter. It will bring death, suffering and destitution to the people of the United States and particularly to the working class. It will give the powers of reaction in this country the pretext for an attempt to throttle our rights and to crush our democratic institutions, and to fasten upon this country a permanent militarism.

"The working class of the United States has no quarrel with the working class of Germany or of any other country. The people of the United States have no quarrel with the people of Germany or any other country. The American people did not want and do not want this war. They have not been consulted about the war and have had no part in declaring war. They have been plunged into this war by the trickery and treachery of the ruling class of the country through its representatives in the national administration and national Congress, its demagogic agitators, its subsidized press and other servile instruments of public expression.

"We brand the declaration of war by our government as a crime against the people of the United States and against the nations of the world.

"In all modern history there has been no war more unjustifiable than the war in which we are about to engage.

"No greater dishonor has ever been forced upon a people than that which the capitalist class is forcing upon this nation against its will.

"In harmony with these principles, the Socialist Party emphatically rejects the proposal that in time of war the workers should suspend their struggle for better conditions. On the contrary, the acute situation created by war calls for an even more vigorous prosecution of the class struggle, and we recommend to the workers and pledge ourselves to the following course of action:

"1. Continuance, active, and public opposition to the war, through demonstration, mass petitions, and all other means within our power.

"2. Unyielding opposition to all proposed legislation for military or industrial conscription—"

Assemblyman Cuvillier.—What is that again?

Mr. Sutherland:

"2. Unyielding opposition to all proposed legislation for military or industrial conscription. Should such conscription be forced upon the people, we pledge ourselves to continuous efforts for the repeal of such laws and to the support of all mass movements in opposition to conscription. We pledge ourselves to oppose with all our strength any attempt to raise money for payment of war expense by taxing the necessities of life or issuing bonds which will put the burden upon future generations. We demand that the Capitalist class, which is responsible for the war, pay its cost. Let those who kindle the fire furnish the fuel.

"3. Vigorous resistance to all reactionary measures, such as censorship of press and mails, restriction of the rights of free speech, assemblage, and organization, or compulsory arbitration and limitation of the right to strike.

"4. Consistent propaganda against military training and militaristic teaching in the schools.

"5. Extension of the campaign of education among the workers who organized them into strong, class-conscious, and closely unified political and industrial organizations, to enable them by concerted and harmonious mass action to shorten this war and to establish lasting peace.

"6. Widespread educational propaganda to enlighten the masses as to the true relation between capitalism and war and to rouse and organize them for action, not only against present war evils, but for the prevention of future wars and for the destruction of the causes of war.

"7. To protect the masses of the American people from the pressing danger of starvation which the war in Europe has brought upon them, and which the entry of the United States has already accentuated, we demand—

"(a) The restriction of food exports so long as the present shortage continues, the fixing of maximum prices and whatever measures may be necessary to prevent the food speculators from holding back the supplies now in their hands;

"(b) The Socialization and democratic management of the

great industries concerned with the production, transportation, storage, and the marketing of food and other necessities of life;

“(c) The Socialization and democratic management of all land and other natural resources now held out of use for monopolistic or speculative profit.

“These measures are presented as means of protecting the workers against the evil results of the present war. The danger of recurrence of war will exist as long as the capitalist system of industry remains in existence. The end of wars will come with the establishment of socialized industry and industrial democracy the world over. The Socialist Party calls upon all the workers to join it in its struggle to reach this goal, and thus bring into the world a new society in which peace, fraternity, and human brotherhood will be the dominant ideals.”

By Mr. Sutherland:

Q. Mr. Lee, were you present in the convention of the Socialist party in March and April, 1917, when a resolution was passed striking out of the constitution of the Socialist party **a plank or** cause prohibiting the practice of sabotage? A. I believe so; I think I was present at the time.

Q. We have not a copy here of the clause forbidding the practice of sabotage which was stricken out at that convention. Could you furnish us such a copy? A. I might be able to find a copy of the clause to which I understand you refer.

Q. Now, there was some action taken at the convention of 1917, which struck out of the constitution of the Socialist party that particular clause, was there? A. Struck out a clause in which there was reference to sabotage, yes.

Q. Wasn't it a prohibition upon the practice of sabotage which was stricken out? A. I do not think that correctly describes it, sir. I have not the exact text before me.

Q. I may be misled by something in this book, this American Labor Year Book. I would be very glad if you could furnish us the plank which was eliminated from your constitution by that action? A. I am not sure whether I have any copy accessible in Albany.

Q. Would you be able to get one for us through some other source so we may have the benefit of it? A. I shall try to do so as quickly as possible.

Q. Thank you very much. I should appreciate it if you could do so. I call your attention to pages 376, 377 and 378 of this American Labor Year Book, and ask you if this is a correct copy of the Socialistic Party platform which was adopted after a referendum to the membership of the party? A. That is in 1917?

Q. Yes, sir. A. I have no doubt that it is a correct copy.

Mr. Sutherland.— Would it be the wish of the Chairman to have that marked as a separate exhibit? The entire book is marked for identification.

The Chairman.— Yes, mark that as a separate exhibit.

Mr. Sutherland.— Now, mark that as a separate exhibit.

(Pages 376, 377 and 378 of the American Labor Year Book 1917-18 was received and marked Exhibit 46 in evidence of this date.)

Mr. Sutherland.— And may I have the resolution on the Socialist Party and the War, which I read, marked as a separate exhibit?

The Chairman.— Yes, sir.

(Page 50 of the American Labor Year Book 1917-18 was received and marked Exhibit 47 in evidence of this date.)

Mr. Stedman.— May I suggest, Judge, that the name be "Proclamation and War Program?" That was the name adopted by the party in preface of that resolution.

Mr. Sutherland.— I have read it as it appears in this book. What was it you say it was called?

Mr. Stedman.— It was called "The Proclamation and War Program."

Mr. Sutherland.— Yes, sir.

Mr. Sutherland.— Let me call your attention, Mr. Lee, to what is said on page 376 in regard to that sabotage section, so that you may be able to trace it:

"John C. Kennedy, of Illinois, reported for the Constitution Committee. A number of minor changes in the old Constitution were made, the one change of importance was

the elimination of article 2, section 6, from the constitution. This was the famous sabotage section, incorporated in 1912."

The Chairman.— Now, as I understand it—the Committee want to know—I understand you struck out the provision in your constitution about sabotage?

Mr. Stedman.— No. I will read something that will clear that up a little later. That was eliminated because it was a dead issue. The I. W. W. portion, which at one time was strong in the party, was eliminated, so it was no longer left; but in connection with that, when counsel is through, I shall want to read matter that will clear it.

The Chairman.— All right.

Mr. Sutherland.— For the sake of brevity, Mr. Chairman, I would like to read only a portion of this platform unless the Committee feel it ought all to be read. I have had it marked as an exhibit, and it will form part of the record for Committee.

Mr. Stedman.— What portion do you refer to?

Mr. Sutherland.— Mr. Stevenson says that is already in evidence, so I won't bother with it.

Mr. Stedman.— You have read the proclamation. Let me see it.

(Mr. Sutherland hands Mr. Stedman the portion referred to.)

Mr. Sutherland.— Well, it is in evidence, anyway, Mr. Chairman. Now, the reading of it—

Mr. Stedman.— The platform adopted at that convention has not been read.

Mr. Sutherland.— I will read a few clauses.

Mr. Stedman.— That is really an action by the party.

The Chairman.— What are these various platforms? I supposed you had offered this in evidence, the platform adopted at the Chicago convention by a majority referendum vote.

Mr. Stedman.— No. Let me say this: We have not taken up before this committee any vote on any platform before us. We have distinguished between the convention of April, 1917, and

the one in August, 1919. At the convention of April, 1917, a proclamation and war program was adopted, which has just been read. There was a platform adopted, which has been offered in evidence, but which has not been read. The preamble to the Constitution has been read, which is not the platform.

The Chairman.— This is the platform adopted in 1919 ?

Mr. Sutherland.— 1917.

Mr. Stedman.— 1917. That was the platform that prevailed in full force and effect up to the convention of August, 1919.

The Chairman.— Then what did you do ?

Mr. Stedman.— Then they adopted the manifesto which has been read. As a matter of fact, so far as the platform is concerned, technically, that is still in force.

Mr. Cuvillier.— It has not been read ?

Mr. Stedman.— It has not been read.

The Chairman.— How long is it ?

Mr. Stedman.— It is very short.

Mr. Sutherland.— It is about two pages.

The Chairman.— Well, I guess, probably, in order to have a regular history there, if that is the situation, you had better read it in.

Mr. Sutherland (reading):

“SOCIALIST PARTY PLATFORM.

“The majority of hired workers in America, whether rendering service by hand or brain, are victims of poverty, or near poverty, and are insecure in their employment and ever live in fear of want.

“This is the fact because they are underpaid. The wages or salaries they receive are only a small part of the wealth or the value they produce and such wages or salaries are insufficient to maintain a decent standard of life.

“Poverty of the masses, in a land of abundance like America, is the greatest of all modern crimes.

“The wage worker is not free, because he can work only by the consent of the owners of jobs.

“ The owners who do not work and the workers who do not own the industries, each naturally seek to protect and advance their own interests. Both seek to maintain the share they now get and to secure more for themselves by taking something from the other. The clash of these interests creates the class struggle.

“ Because of this class struggle the workers organize in labor unions, cooperative societies, and in the Socialist Party. The owners organize into employers' associations, commercial bodies, and citizens' alliances. They also control and dominate the great political parties. Labor's principal weapons are strikes and boycotts. The capitalists respond with lock-outs, blacklists, court injunctions, and the intimidation, imprisonments, hangings and mass murder. This terrible class warfare is world wide and a grave menace to civilization. Its abolition is the most important and vital issue confronting the human race.

“ The present system of production and distribution is known as the capitalistic system to distinguish it from the several systems which preceded it, such as chattel slavery and the feudal system. Under capitalism there are two distinct classes, the capitalist class and the working class. The capitalist class is maintained by the taking of rents, interests and profits.

“ The working class, owning no industries, lives by getting wages. The worker sells the only thing that he owns, his power to labor. This power to labor lessens with the advancing years.

“ Controlling the government, the capitalist class makes laws in its own interest. Behind these class laws is every instrument of the government to make sacred and defend the private ownership of land and industries and the special privileges by which labor is robbed.

“ Thus the economic question is a political question. How you live is a political question of momentous importance. The theory of a democratic government is the greatest good to the greatest number. The working class far outnumbers the capitalist class. This is the natural advantage of the working class. By uniting solidly in a political party of its own it can capture the government and all its powers and use them in its own interest.

" The Socialist Party aims to abolish this class war with all its evils and to substitute for capitalism a new order of cooperation, wherein the workers shall own and control all the economic factors of life. It calls upon all workers to unite to strike as they vote and to vote as they strike — all against the master class.

" Only through this combination of our powers can we establish the cooperative commonwealth, wherein the workers shall own their jobs and receive the full social value of their product. The necessities of life will then be produced, not for the profits of the few, but for the comfort and happiness of all who labor. Instead of privately owned industries, with masters and slaves, there will be the common ownership of the means of life and all the opportunities and resources of the world will be equal and free to all.

" This magnificent goal represents the supreme ideal of the human race. As such it is to the highest interest of every human being to join in the struggle of the working class and help fight to a finish the battle which will free all men and women and lift them to a position infinitely higher and better than can be possible so long as the system of capitalism endures.

" IMMEDIATE PROGRAM.

" The following are measures which we believe of immediate practical importance and for which we wage an especially energetic campaign:

" POLITICAL DEMANDS

" 1. Complete adult suffrage by the elimination of all sex, residential and educational qualifications, by the abolition of all registration fees, poll taxes, or other impediments to voting. Enfranchisement of those who have declared their intention to become citizens and have resided in this country one year.

" 2. Democratic control of the government through a constitutional amendment providing for the initiative, referendum and recall.

" 3. Proportional representation of all representative bodies.

" 4. The abolition of the powers of the courts to make and unmake laws because of alleged unconstitutionality or other grounds.

" 5. Rigid maintenance of the right of free press, speech and assemblage in peace and in war.

" 6. Resistance to compulsory military training and to the conscription of life and labor.

" 7. Repudiation of war debts.

" ECONOMIC DEMANDS

" 1. National ownership and democratic control of the railroads, telegraphs and telephones, steamship lines, and all other social means of transportation, communication, storage, and distribution.

" 2. Nationalization of banking and of socially beneficial kinds of insurance.

" 3. Direct loans to municipalities and states at cost.

" FURTHER DEMANDS

" The following measures do not exhaust by any means the ways by which the workers can be helped to freedom. They are compiled as suggestive of further activity to that end:

" 1. Abolition of the Senate, and the veto power of the President.

" 2. Direct election of the President and Vice-President.

" 3. Immediate curbing of the power of the courts to issue injunctions.

" 4. Direct election of all Judges of the United States Courts for short terms.

" 5. Free administration of law and the creation of public defenders.

" INDUSTRIAL DEMANDS

" 1. Complete abolition of child labor.

" 2. A legal minimum wage based on the ascertained cost of a decent standard of living.

" 3. Full protection for migratory and unemployed workers from oppression.

" 4. Abolition of private employment, detective and strike-breaking agencies, and the extension of the Federal Employment Bureau.

" 5. A shorter work day in keeping with increased industrial productivity.

"6. An uninterrupted rest period of one and a half days in each week.

"7. Freedom of industrial and political activities of the workers.

"GENERAL DEMANDS

"1. Taxation to be raised from graduated taxes on incomes and inheritances and from site values.

"2. Adequate higher educational facilities for the entire youth of the nation, and such contribution to family resources as will enable the youth to remain in contact with such facilities until they are fully equipped for their economic and social careers.

"3. Government support, by loans and other methods, to farmers and workers' co-operative organizations.

"4. The retention and extension of the public domain and the conservation and full development of national resources by the nation.

"5. Pensions for mothers, for invalidity and old age."

Q. Was there a resolution, Mr. Lee, adopted on the relation of the Socialist party to labor organization? A. I believe there was.

Q. And is the resolution on page 378-9 a correct copy of the resolution so passed? A. I have no doubt it is a correct copy. Of course, I have not compared it word for word.

Mr. Sutherland.— I ask that that be marked as an exhibit.

The Chairman.— It will be so marked.

(Page 378-9 was marked Exhibit No. 48 in evidence of this date.)

By the Chairman:

Q. That is the platform adopted, is it? A. 1917.

Q. Is that the platform of the Socialist party at the present time? A. I think Mr. Stedman stated correctly that it is technically the platform at the present time, that is to say, no platform has been adopted since that time. The convention in 1919 adopted a manifesto and preamble to this constitution which is a brief statement of the socialistic principles, and appointed a committee to prepare a permanent platform to be reported at the convention to follow in 1920.

Assemblyman Cuvillier.— But it is still in effect?

The Witness.— I should say that was. .

The Chairman.—What time was this convention in 1919?

The Witness.— In March — April.

Mr. Stedman,—April 7th, and adjourned about the 14th.

The Witness.— Yes, sir.

Mr. Stedman.— The first call for the meeting for the purpose of taking up the proposition of war was, I think, approximately the 15th or 20th of April. After that call was issued by the President the Socialists submitted a call to convene their convention prior to the meeting of the United States Congress. The original call for the meeting of Congress—the President called—and it is in the book there—I will read that in a few moments—this book that counsel referred to—was subsequent to the 7th day of April after the Socialists had designated the day for the convention, and the convention had been called. The President then advanced the date for the meeting of Congress, so that when this date for our convention was called, he fixed the meeting of Congress to declare war—and it was to be subsequent to that, and it was advanced by the President after the date of this convention had been fixed.

Mr. Sutherland.— The two lines preceding this Exhibit 48 are:

“The following resolutions on the relation of the Socialist party to labor organizations was also adopted.

“Political organizations and economic organizations are alike necessary in the struggle for working class emancipation. The most harmonious relations ought to exist between the two great forces of the working class movements, the Socialist party and the labor unions.

“The labor movement of the United States has of recent years made marvellous progress in all directions. It has steadily increased in numbers, and has reached trades and industries which were before unorganized. It has in many instances concentrated its power and increased its efficiency by the amalgamation of related trades into federations and industrial unions. Many unions have opened their meetings and journals to the discussion of vital social and political problems of the working class, and have repudiated the demoralizing politics represented by the National Civic Fed-

eration. The organized workers are rapidly developing an enlightened and militant class consciousness.

“THE SOCIALIST MOVEMENT IN THE UNITED STATES.

“The reality of this progress is attested by the increasing virulence with which the organized capitalists wage their war against the union. This improved economic organization is not a matter of abstract theory, but grows out of the experience of the wage workers in the daily class struggle.

“The Socialist Party, therefore, calls the attention of the men and women in the labor unions to the vital importance of the task of organizing the unorganized, especially the immigrants and the unskilled laborers, regardless of race, who stand in greatest need of organized protection, and who will constitute a great menace to the progress and welfare of organized labor if they remain neglected. The Socialist Party will ever be ready to co-operate with the labor union in the task of organizing the unorganized workers, and urges all labor organizations, which have not already done so, to throw their doors open to the workers of their respective trades and industries, abolishing all onerous conditions of membership and artificial restrictions, with the view that their organizations be eventually developed into industrial, as well as militant, class-conscious and revolutionary unions with the development of the industries.

“In the face of the tremendous powers of the American capitalists and their close industrial and political union, the workers of this country can win their battles only through a strong class-consciousness and closely united organization on the economic field, a powerful and militant party on the political field, and by a joint attack of both on the common enemy.

“It is the duty of the party to give moral and material support to the labor organizations in all their defensive and aggressive struggles against capitalist oppression and exploitation, for the protection and extension of the rights of the wage workers and the betterment of their material and social condition. It is also the duty of the members of the Socialist party who are eligible in the unions to join and be active in their respective labor organizations.”

By Mr. Sutherland:

Q. Mr. Lee, does the —

Mr. Stedman.—Are you going to take up some other book? May it not be perhaps advisable to read from the books that you have referred to — one or two pages, so that they will follow in sequence?

Mr. Sutherland.— Mr. Chairman, I am nearly through with Mr. Lee, and then I will turn it over.

The Chairman.— Mr. Stedman states that he would like to read from a certain book that you were using. Mr. Stedman wishes to have something out of the same book, but another article.

Mr. Stedman.— I wish to read first from the Congressional Campaign Book of 1914. That is the one referred to, so as to have it as nearly in order as we can, and then to read from the book which he has just read from.

The Chairman.— That has been read from? Mr. Stedman desires to put in something that connects evidently with this very subject.

Mr. Stedman.— The book as read by you, I desire to read certain portions of that, and I wish them in the record. I thought it preferable to do it now.

Mr. Sutherland.— Out of that book? (Indicating an exhibit.)

Mr. Stedman.— Yes, but immediately before that, what was read from the campaign book by Mr. Stanchfield.

The Chairman.— Why can't you do that, Mr. Stedman, after he gets through.

Mr. Stedman.— Yes, I guess I can.

By Mr. Sutherland:

Q. Mr. Lee, are you acquainted with these gentlemen whose seats are being contested? A. I am.

Q. Do you recall from memory whether any of them were delegates to and in attendance upon the convention in April, 1917? A. To my memory none of them were.

Q. That is, you do not recall now whether they were or were not? A. I do not remember that any of them were.

Q. You do not wish to be understood that none of them were there? A. I could not testify to such a negative as that from memory.

Q. How about the convention of September, 1919? A. I think three or four of them were delegates to the convention of 1919.

Q. You were present at that convention? A. I was present at that convention.

Q. Give us the names of those that you remember were present at the September convention of 1919? A. Mr. Claessens, Mr. Waldman, Mr. Solomon and Mr. Orr.

Q. Yes.

Assemblyman Rowe.—And were they delegates?

The Witness.— Yes, sir.

By Mr. Sutherland:

Q. I show you an exhibit which was put in evidence as Exhibit 41 and entitled "Decrees and Constitution of Soviet Russia," and ask you if that was circulated by the Rand School, or its publication department? A. It was undoubtedly sold in the Rand School book store.

Q. And you maintain a book store in your institution, do you? A. Yes, sir.

Mr. Sutherland.— May I show you a book entitled "The Soviets at Work" by Nicolai Lenine and ask you if that — this is marked Fifth Edition — if that is printed and circulated by the Rand School?

The Witness.— Yes, sir; it was.

By Mr. Sutherland:

Q. And were the preceding editions printed and circulated? A. Yes, sir.

Mr. Sutherland.— Now, one or two other matters I will — just a moment.

Q. I am looking, Mr. Lee, for two letters of Lenine to the American workingmen in pamphlet form. I wanted to ask you if you printed and circulated that.

The Chairman.— Now, Judge, Assemblyman Rowe wanted to ask a question.

By Assemblyman Rowe:

Q. After these conventions had adjourned were there any approvals made by the different locals, by resolution or otherwise,

approving the work of the main convention? A. My memory is that there probably were resolutions approved in many cases.

Q. And these approvals of the different locals also extended to the locals wherein the Assemblymen were members? A. I cannot say positively as to that.

The Chairman.— You mean the 1917 convention where this platform was adopted and then you adopted in 1919, what do you call it?

Mr. Stedman.— Proclamation.

The Witness.— Proclamation and war program or the manifesto of 1919.

The Chairman.— That was sent out and adopted by the various locals?

The Witness.— I believe so.

Assemblyman Evans.— I understand they concede that.

Mr. Stedman.— Yes; all of the members vote on all the proclamations and proceedings. Now, the manifesto adopted in August and September, 1919, has not been voted on but the 1917 has.

The Chairman.— That is the one you just read.

Mr. Stedman.— The 1917 proclamation voted on and adopted.

Mr. Sutherland.— I would like to ask the witness how long the process is or was for the adoption of the various resolutions and the platforms and declarations which have been read of the convention in 1917.

The Witness.— It takes several months first for preparing these matters in print and sending them out, then a time is allowed during which to give the members opportunity for considering them and discussing them and to vote upon them and for the returns to be made. Offhand I should say something like four months is necessary; it may be more.

By Mr. Sutherland:

Q. It would be safe to say then that this referendum hadn't been accomplished and the results ascertained at least for four months after the Convention in April, 1917? A. I should think it might be that.

Q. How much publicity was given to these platforms and resolutions? They were all published in the Call, of course, in New York? A. I think they were published in the newspapers generally throughout the country, not only Socialist newspapers but through the papers generally.

Q. How many papers are there which may be properly called Socialist papers in the United States? A. I don't know.

Q. Couldn't you give us an estimate? A. A considerable number.

Q. We would take your guess. A. It would be merely a guess; it would run at that time I suppose into some scores, mostly weekly papers, bi-monthly, daily others.

Q. How many daily papers are there or were there in 1917? A. There were two English, two dailies in the English language, The Call in New York and The Leader in Milwaukee. There were dailies in the German and Jewish languages in New York; in the Hungarian language in New York; in the Russian language in New York, and in foreign languages in some other places at that time. I believe there were only two dailies in the English language.

Q. Which were they? A. The Milwaukee Leader and The New York Call.

Q. I call your attention to the book entitled "Soviets at Work" by Lenine. I would like that marked for identification at this time.

(Book received and marked Exhibit No. 49 for identification.)

The Chairman.—What Mr. Rowe wants to know, the 1917 platform and your Manifesto of 1919, I take it, went out to the various sub-organizations for ratification.

The Witness.—To a general vote of the party; yes, sir.

The Chairman.—Mr. Rowe would like to know if these two documents were ratified and made a component part of the organization in the districts in which these gentlemen reside and represent.

The Witness.—The 1917 documents were certainly so approved by the general vote of the Party membership and I have no doubt, I cannot state as to what the vote was in the specific locals, but a majority in each local. I understand the vote on the 1919 matters is not yet completed. It is now in process.

By Mr. Sutherland:

Q. Had the New York locals and the Bronx locals and the Kings County locals voted upon the Manifesto of 1919, September?

Mr. Stedman.— You will pardon me a minute, — perhaps I can answer the question. I will ask each one of the members from their locals.

Mr. Sutherland.— Is that in accordance with your judgment, Mr. Chairman?

Mr. Stedman.— If the Committee wants to know how these locals voted I will find out. I think every one voted in favor of it.

Mr. Sutherland.— Very good. We will take that.

The Chairman.— I would like to have it one way or the other.

Mr. Stedman.— That the majority of the locals in these districts voted in favor of the proclamation and War Program.

The Chairman.— Let's have that.

By Mr. Sutherland:

Q. Now, Mr. Lee, I show you two pamphlets, one a letter to American workingmen on the Socialist Soviet Republic of Russia by Lenine, and ask you if that pamphlet is circulated in the Rand School (showing paper to witness)? A. It is quite possible that it has been sold in the Rand book store.

Q. You are familiar with this tract or letter? A. Yes, sir.

Q. Did it receive wide general circulation in this country among Socialists? A. I should suppose that it was pretty widely read among Socialists and others.

Q. Yes, sir; and how about the pamphlet entitled "A New Letter to the Workers of Europe and America" by Lenine? A. The answer would be the same, I believe, that it has been pretty widely circulated by people interested in Russian affairs.

Q. What is the Socialist Publication Society with headquarters, — one place it is marked 431 Pulaski Street, Brooklyn, and in another 243 55th Street, Brooklyn? A. I have no connection with that. I know only as much as that title page shows.

By Mr. Sutherland:

Q. Is it a society which publishes literature for the reading of the public on socialistic matters? A. Apparently. My knowledge would be gained from the title page.

Q. That is all you know about it? A. Yes.

Mr. Sutherland.—I would like to have these marked for identification.

(Pamphlets referred to marked for identification exhibits Nos. 50 and 51.)

By Mr. Sutherland:

Q. Mr. Lee, may I ask if the vote of locals on the adoption of a platform or manifesto of a national convention is sent directly to the National Secretary, or whether it is first sent to the State Committee and there counted with votes of other state locals and the state resolution sent on? A. It is sent through the State office, as I understand.

Q. Then, is there such a thing as the approval of the planks, or resolutions, of the National Convention by the state party as a whole? A. I don't think it is considered as an approval by the state party. It is considered as an approval by the party membership of the United States.

Q. The state organization, then, merely is the medium through which the resolution is transmitted to the national officers? A. In this respect I think that is correct.

Q. Has there been any proclamation of the resolution in the State of New York, that you know of? A. Of the 1917?

Q. Of the 1919? A. Not so far as I know.

Q. There is no question about the approval of the 1917 resolution and platform, etc., that has been read? A. No.

Q. Now, is it not a fact perfectly well understood that the manifesto of 1919 has actually received the approval of a very great majority of the members of the Socialist Party? A. I don't know as to that.

Q. Has not that been announced through the press? A. It may have been — not so far as I know; not so far as I have seen.

Mr. Sutherland.—Mr. Chairman, I think that is all we have to ask Mr. Lee.

The Chairman.—Would you like to cross-examine.

Cross-examination by Mr. Stedman:

Q. Mr. Lee, referring to the Lenine letter, which has been mentioned by counsel, do you recall a discussion of that letter in the New York Local, the publishing of it? A. Of the publishing of it by the New York Local?

Q. Yes. A. Yes, I do remember on one occasion.

Q. Do you recall that any of the Assemblymen were present?

A. I am fairly sure —

Q. You were a delegate there? A. I was a delegate.

Q. You were a delegate with Louis Waldman? A. Yes.

Q. And is it not a fact that that letter was discussed at that time? A. It was.

Q. And a motion was made to publish? A. And a motion was made to publish.

Q. And how did you vote, do you recall? A. My memory is I voted against.

Q. And how did Waldman vote? A. Against.

Q. And was there a discussion expressing doubt as to whether Lenine ever wrote that letter? A. The doubt has been expressed.

Mr. Cuvillier.—Mr. Stedman, what other Assemblymen were present?

Mr. Stedman.—What is that?

Mr. Cuvillier — You asked him what Assemblymen were present and he said Waldman. What other Assemblymen were present?

By Mr. Stedman:

Q. I am referring to one local. What local have you in mind?

A. Local New York, which is Manhattan.

Q. The other Assemblymen are not living there? A. Assemblyman Claessens is also a resident of New York.

Q. Do you remember whether he was there? A. I don't remember whether he was present at that meeting or not.

Q. Was the motion lost or carried? A. The motion was lost.

By Mr. Sutherland:

Q. What was the motion? I did not get it. A. A motion that Local New York of the Socialist party should publish the Lenine letter to the American workingmen for general distribution.

Mr. Sutherland.— I do not quite get it. Was it that there was some doubt about the genuineness of the letter?

Mr. Stedman.—Yes, there has been a very great deal of doubt, and they never sanctioned its publication.

Mr. Sutherland.—Which letter was that, Mr. Stedman, that you were referring to?

Mr. Stedman.—What is that?

Mr. Sutherland.—Which of the two letters were you referring to?

Mr. Stedman.— I will ask the witness.

The Witness.— The first letter.

Mr. Stedman.— I think you ought to have the exhibit number.

Mr. Sutherland.— Exhibit No. 50 is the first letter.

Mr. Stedman.— I want to read now from the Socialist Congressional Campaign Book, 1914. I do not recall your exhibit number for this. I think it is 42.

Mr. Sutherland.— No, I am afraid not.

The Witness.— 42 is the other.

Mr. Sutherland.— Look on the inside page.

Mr. Stedman.— I have another copy. I haven't yours.

Mr. Berger.— Exhibit No. 38.

Mr. Stedman.— Exhibit No. 38, and I am reading from page 30. It refers to sabotage:

“ WHY THE SOCIALIST PARTY OPPOSES SABOTAGE.

“(From ‘Are There Classes in America?’ by Ralph Korn-
gold.)

“ This pamphlet can be obtained from the national office of the Socialist party for 10 cents.

“ John Spargo, in his excellent book, ‘ Syndicalism, Industrial Unionism and Socialism,’ defines sabotage as an essentially furtive and stealthy policy practiced by individual workers, having for its aim the obstruction of industry and

business to such an extent that the employers will suffer a loss of profits so great as to compel them to grant the workers' demands. It may involve violence, or it may be peaceful. It may involve destruction of property, or it may not. It may be based on illegal acts, or it may not. It may consist of telling lies, or of telling the simple truth.

"This is probably as inclusive a definition as can be framed of so elusive a doctrine. Because of this very elusiveness it is impossible for anyone to say that he is opposed to all acts that go under the name of sabotage. Surely no one can be opposed to 'telling the simple truth.' The advocates of sabotage are, as a rule, shrewd enough to bring out in their discussions of the subject only such inoffensive forms of sabotage as no one can object to, and which, by right, should not be branded with the name at all.

"Mr. Arturo M. Giovannitti, translator of Pouget's book, 'Sabotage,' defines it as 'A—Any conscious and wilful act on the part of one or more workers intended to slacken and reduce the output of production in the industrial field in order to secure from their employer better conditions, or to enforce those promised, or to maintain those already prevailing, when no other way or redress is open. B—Any skillful operation on the machinery of production intended not to destroy it or permanently render it defective, but only to temporarily disable it and put it out of running condition; in order to make impossible the work of scabs, and thus secure the complete and real stoppage of work during a strike.

"While Mr. Giovannitti's definition is sufficient to damn sabotage as a working class weapon, yet it by no means defines the doctrine, but merely gives the bounds to which Mr. Giovannitti, seeing danger ahead, would like the believers in sabotage to confine themselves. In practice, sabotage means what a member of the Industrial Workers of the World, a firm believer in sabotage, told me that it means to him and his fellow-workers — '*Anything or everything that we think is going to help us win.*'

"I have tested this simple definition repeatedly in my association with believers in the doctrine, and I have found that this is what sabotage means to the men on the firing line who become imbued with the doctrine.

"The Socialist Party is opposed to sabotage and has repudiated it in convention, by referendum vote, and by vote of

its national committee. One who practices or advocates sabotage can no longer be a member of the Socialist Party. In this the Socialist Party of America has taken a stand in harmony with the stand taken by the Socialist parties of other nations.

"The Socialist Party does not take this position because of any pharisaical moral scruples. The reasons for our opposition are many, but all of them have to do with the demoralizing effect sabotage has upon the working class movement and upon the workers themselves."—

The Chairman.—Is that important, Mr. Stedman?

Mr. Stedman.—Yes, I think it is. When counsel brings out the proposition here of the Socialist Party countenancing sabotage, it is very important that this record should show that the Socialist Party, in a national campaign book, issued throughout the United States, when that was an intense issue among the workers of this country, called attention to the fact that it was demoralizing to the workers, that it was not of advantage in a political conflict or an industrial conflict, and that the effect upon the individual was demoralizing. This party did it when the public press of this country was stupendously ignorant of what it meant.

The Chairman.—It seems to me we have got the idea now. Without it is very short, I do not think it is necessary to read it.

Mr. Stedman.—I would like to put in one paragraph:

"Still more disastrous is the influence of sabotage upon the individual who practices it. The strongest argument against sabotage is the saboteur. The Jesuitical doctrine that the end justifies the means, with which the believer in sabotage becomes impregnated, renders him untrustworthy, not merely as a workman, but as a comrade in the battle for freedom.

"To believe that a working class which sneers at truth and common honesty as 'capitalistic notions' can bring about a society which would be an improvement on what we have to-day, is to believe the impossible. Honesty and dependability in the workers, while benefiting the capitalist class to-day, are indispensable for the society of the future. We dare not corrupt ourselves — not even to spite the capitalists."

Mr. Sutherland.— May we have it understood, Mr. Chairman, that the clause just read by counsel is article 2, section 6, from the National Constitution of the Socialist Party, forbidding sabotage, which was stricken out of their constitution in April, 1917?

Mr. Stedman.—No objection at all.

Mr. Sutherland.— Then it will relieve Mr. Lee of hunting it up. It seems to be in this campaign book.

The Chairman.—All right.

By Mr. Stedman:

Q. Now, Mr. Lee, you knew of a controversy that took place in the party, did you not, over the subject of sabotage? A. Yes.

Q. What was the position of William D. Haywood, if you remember, at the time this controversy was in its height? A. At the time this controversy was in its height, in 1912, and for time before and after the convention of 1912 —

Q. His official position; he was on the executive committee, was he not? A. Yes.

Q. What occurred? A. Mr. Haywood's position was one of underestimating —

Mr. Sutherland.— I object to his stating what Mr. Haywood's position was. Now, if there was any declaration of the party or resolution setting forth the action of the party in striking out the prohibition against sabotage, let us have that.

Mr. Stedman.— I intend to. I intend to show, if counsel please, that when it was vital, we took a position on it; when it was ended, there was no reason to trot around with it.

The Chairman.— Go ahead.

Mr. Stedman.— Will you proceed to state just precisely why it was dropped?

Mr. Sutherland.— I object to that.

The Chairman.— Objection overruled.

The Witness.— It was dropped because between 1912 and 1917 it had ceased to be an issue within the party because those who had considered sabotage as an efficient method of working class

action had been eliminated, or eliminated themselves, from the Socialist Party. In the discussions in the convention of 1917 and the discussions of the party platform it was generally agreed, I believe, that the clause had no longer any occasion to be in the constitution.

Mr. Harrington.—Mr. Lee, that is your opinion as to the reason for striking this out?

The Witness.—That is my opinion gained from listening to and participating in the discussions of the convention, and before and after the discussion.

By Mr. Stedman:

Q. Was Mr. Haywood in the party at that time? A. Not at that time. He was already out of the party.

Q. And they affiliated generally with the I. W. W.? A. Generally speaking it is affiliated with them where it is outside of the party.

The Chairman.—Well, the best definition of “sabotage” is a strike to stay on the payroll?

The Witness.—That is one definition.

Mr. Stedman.—The previous definition, I think you will find to be the arresting of production. That has been defined as striking on the job, as you have it.

Mr. Stedman.—I wish to read now just one or two paragraphs from the exhibit, “American Labor Year Book,” which has been offered; and I am reading from page 16. (Reading):

“New York Consumers’ League entered protest against Johnson bill and demanded a hearing. The bill was subsequently withdrawn.

“President Wilson, in accordance with provisions of act of March 4, suspended Federal eight-hour law in navy yards and private shipbuilding establishments, where such suspension would hasten preparation to meet emergency.

“New York Industrial Commission exempted Curtiss Aeroplane and Motor Corporation from the one-day rest in in seven law, and permitted it to ‘work such men as are exclusively engaged in the manufacture of aeroplane and

aeroplane motors seven days a week, and as many hours as the employees wish, for a period of six months.' ”

Then, there are clauses here which I can pass over in regard to child labor.

On page 9 I wish to read the following: (Reading):

“ On March 9th President Wilson issued a proclamation calling the 65th Congress to meet in extra session on April 16.

“ On March 20th President Wilson conferred with the Secretary of the Navy and with his Cabinet. Orders were issued to push ahead more rapidly with preparations for war. The special session of Congress, originally called for April 16th, was now summoned to meet two weeks earlier, on April 2d.”

I read that for the purpose of connecting it as originally subsequent and later prior to the date of the meeting of the St. Louis convention on April 7, 1917.

By Mr. Stedman:

Q. Mr. Lee, how long have you been in the Socialist party?

A. Since the formation of the party, and before that, in the Socialist Labor Party, since 1895.

Q. Perhaps, before referring in a general way — you have heard and read, I suppose, of “ The Nation ? ” A. I have.

Q. And it is a weekly publication? A. It is a weekly publication.

Q. Today published by Mr. Villard, I believe? A. I understand so.

Q. You read it rather regularly? A. Rather regularly, not absolutely.

Q. Do you recall about January 4, 1919, around that date?

A. I was reading it fairly regularly at that time.

Q. Referring now to the published book which has been offered here of the Soviet Constitution and Laws — A. Yes, I remember that was published something like a year ago.

Q. And it was published in the weekly? A. In the weekly mentioned.

Q. And now the book appears to be published by the Nation?

A. Yes, sir.

Q. Do you know also whether it was published in the “ Survey,” a weekly? A. It was.

Q. How long ago? A. I think somewhat later, but approximately the same time, if my memory serves me.

Q. And those who were reading the publication that was giving the news could have read it a year ago? A. Yes, sir.

Q. Has the Rand book store been selling that book? A. It has.

Q. Now, then, I will return to the line I was pursuing a moment ago. During the time you have been in the party you have held what office? A. I have been for some time a member of the national party. I have been for some years a member of the New York State Committee. I have been a delegate in, I think, nearly all State conventions since I came to New York twenty years ago, and in the national conventions of 1904, '08, '10, '12, '17 and '19.

Q. What committees have you usually served on in the national convention? A. Usually—I think usually on the Committee on Platform and Resolutions. On one occasion, at least, on Relations to the Trade Unions.

Q. Do you know of any resolution, manifesto or platform declaring for the overthrow of the government by physical force?

Mr. Sutherland.—I object to that as calling for a matter of construction or interpretation of words.

The Chairman.—Objection overruled.

A. I do not know.

Mr. Stedman.—In cross-examination we have a right to ask for conclusions.

The Chairman.—Yes, you have.

By Mr. Stedman:

Q. You have been affiliated with the Rand School for how long? A. A little more than ten years; that is, I had some connections with the Rand School before then, but I have been the educational director of the Rand School for ten years.

Q. Will you state what it operates; is there a restaurant there? A. There is a restaurant there; there is a book store. The principal work of the school is the carrying on of lecture courses and teaching courses, classes in a great variety of subjects.

Q. Will you please state a few of them? A. In the first place, there are pretty numerous classes in English, because there is a

large element in the working class population of New York whose English is very limited. Numerous classes in English, elementary, and some advanced. There are classes in American history — in modern general history, in the history and civilization, in the history of the Socialist and trade union movement; classes in economic theory; in elements of statistics; in fundamentals of Socialism; classes dealing from time to time with various special social topics, such, for instance, as social insurance. Then, again, there are classes, or lecture classes, dealing with the subject of anthropology, of general sociology; with political science, the evolution of the State, comparative politics, and, perhaps I ought to have mentioned before, but it connects here, in American civics and government, which, of course, connects itself with our work in American history. In public speaking, the use of the voice in public speaking. The improvement and correction of foreign accent; in the art of collecting material of speeches, of preparing it in the way of arranging documents and presenting it. All those various lines of public speaking work.

Q. Gathering of data? A. In research work that is part of the work of public speaking.

By Assemblyman Cuvillier:

Q. Do you confer degrees? A. No, sir.

Q. Are you under the supervision of the Regents of the State of New York? A. No, sir; we have never applied for that recognition to confer degrees.

Q. You have not? A. No; our students, you will understand, are, I might say, a fluctuating body. The greater part of them do not go through with a four-year course, or a two-year course, or something of that sort. They are working people who can spare only a limited amount of time for study, who attend those courses, usually evening courses, as benefit them. I might say our students do not come with the idea of getting a degree or diploma, or recognition, but because they are topics which interest them, and which they think they can learn with us. The degree or diploma would not mean very much from a school like the Rand School. We do not count that it gives a man any professional standing, or anything like that.

Q. Something was said about donations and bequests, and Judge Sutherland omitted it, I do not know why he did; was a bequest made to your school of a substantial amount of money,

do you know? A. No, I believe it is technically called a deed of trust which was executed by the late Mrs. Rand which put certain properties — I do not know. I understand it was partly real estate and partly securities in the hands of trustees with the provision that a portion of the income therefrom should be turned over annually, or semi-annually, to the American Socialist Society for the purpose of the Rand School.

Mr. Stedman.— May I interrupt you just a moment?

Mr. Bloch.— I would like to interrupt just for a moment. I received a long distance telephone call from Mr. Gerber, our secretary, who went to New York for the purpose of examining, with a representative of the Committee, the cards in the card indexes of local New York county. They have completed the tabulation of the present membership, but the representative of the Committee seems to insist on taking a tabulation of the entire membership for the twenty years last past, including those who are read or who might have been either recalled or expelled from the party, and does not want to leave merely with the life membership of the party at the present. They called up for instructions.

The Chairman.— What is your understanding?

Mr. Stedman.— I do not recall any understanding of any limitation. I simply assumed they would not want dead ones.

Mr. Block.— It would mean an examination of perhaps 60,000 cards.

The Chairman.— I assume all you want is the present membership?

Mr. Sutherland.— That is the primary thing.

Mr. Block.— May I give that instruction, then?

The Chairman.— Just one moment. I do not want them to have my view of it.

Mr. Sutherland.— May we have time to confer on that subject? There are one or two things that may require some specific hunt through those cards. If we can take that up after the adjournment tonight and let them suspend operations in the meantime.

Mr. Block.— I should like to have a representative of the Committee go with me to the telephone so he may speak with his own representative.

Mr. Stedman.— Any one.

The Chairman.— Proceed.

The Witness.—As I was saying, this fund was left in the hands of trustees with the provision that a portion of the income should be turned over to the American Socialist Party for the purposes of the Rand School but that as her heirs reached a certain age respectively they should draw out their shares from the principal, so that the fund would eventually become extinct. Most of those heirs, if not all, have reached the age and I believe all except one have withdrawn the principal and the fund is practically extinct.

Mr. Cuvillier.— That is all.

Mr. Stedman.— By the way, you are speaking of the Rand Association?

The Witness.— Yes.

By Mr. Stedman:

Q. You had a book in favor of the War sold in your book store written by Mr. George D. Herring, did you not? A. Yes.

Q. Persons entering your school you did not require that they should have graduated from a primary grade? A. We do not. The only requirement we make is a sufficient knowledge of the English language to be able to benefit by the instruction.

The Chairman.— You teach correspondence?

The Witness.— We have correspondence courses also, so the greater part of our time —

By Mr. Stedman:

Q. You don't require that they should be graduated from a common school? A. We do not.

Q. You admit pupils which universities ordinarily would not admit? A. And also pupils who have graduated from a university; there is the greatest variety.

Q. Will you state the names of some of your instructors? A. Among our principal instructors, those who devote their time

mostly to the work at present. First I may mention myself as being the educational director and teaching certain classes.

Q. What classes do you teach? A. I have at present classes in economics, elements of economics.

Q. Are you a graduate of a university? A. I studied in the University of Minnesota five years, took special work, but did not receive their diploma.

Q. You may name the lecturers. A. Mr. David Beinbert, Benjamin Glassberg, Mr. Leland Olds, Mr. Frank Tannenbaum of Columbia University—

Q. What is his position in Columbia University? A. He is an assistant to Professor Carlton Hayes in Columbia University.

Q. What is his work? A. In modern general history. Mr. Max Schoenurg.

Q. Who is he? A. Former high school teacher, who resigned from the schools some two or three years ago in order to go into business, and gives a portion of his time to teaching in the Rand School; Mr. August Claessens is an instructor as I mentioned before.

Q. Those are lecturers. You have Nearing? A. Mr. Scott Nearing. Professor Beard is not lecturing for us this year. He has on numerous occasions in the past.

Q. With what university is he connected, Professor Beard? A. Professor Beard was of Columbia University, and he resigned about a year or two ago. Professor Alexander Goldenweisser.

Q. What university? A. Of Columbia University, now of the School of Social Research in Anthropological Courses on Ancient Society and Development of Civilization.

Q. Dana? A. Mr. Dana, formerly of Columbia University, has given courses and we expect him to give one before the season is over on literature.

Q. Giddings? A. Professor Giddings of Columbia has given courses in the past, so has Professor William P. Montague of Columbia in Philosophy. Professor Charles Zuebling, an authority specially on civic affairs, lectured on such subjects; the late Professor Lester F. Ward, sociologist of Brown University, now deceased.

Q. Is he the author of True Dynamic Sociology? A. Yes, those are the standard works, yes.

Mr. Cuvillier.—Do these teachers and professors subscribe to the doctrine of the Socialist platform? A. Not necessarily; no,

sir. Among our teachers and lecturers there are Socialist Party members and persons who are not members, and persons who are not Socialists, possibly who might be anti-Socialists on some points.

By Mr. Cuvillier:

Q. But your dominant point is the teaching of the science, the dogmatic science of your creed or society of Socialism, isn't it?
A. No, sir; we carefully refrain from dogmatic teaching, from the teaching of the creed. That is a matter about which we have been very careful and made every effort and I think with much success to avoid dogmatic teaching. What we try to do with our students whom you understand are in a great majority wage workers, and even manual wage workers, in various industries, clerical employment and so forth—

Q. No, what I am getting at is this: your principal proposition is teaching Socialism? A. No, sir.

Q. That is all I want to know.

By Mr. Bloch:

Q. What connection has the Rand Sunday School with the Rand School? A. Rand Sunday School—I never heard of it.

Q. There was some mention in the New York papers about the Rand Sunday School. A. I don't know of any such thing as the Rand Sunday School.

By Mr. Stedman:

Q. Will you proceed with your answer? A. The nature of our teaching is intended to be non-dogmatic. It is intended to present the Socialist position, the facts concerned with Socialism, to encourage our students to view all sides of the question, to give the opportunity through reading and through lectures and so forth, to gain that varied knowledge of historical, economic, political, sociological subjects, which will enable them to judge of public questions such as the Socialist Party concerns itself with. Now, I may say we have that confidence, those of us who are Socialists, as the directors of the school, we have that confidence in our Socialist position that we believe it will be strengthened by the presentation of the other side, that the people will be better Socialists if they understand, if they are not taught dogmatically

but are trained to understand and judge independently for themselves.

By Mr. Cuvillier:

Q. Notwithstanding what you say, Mr. Lee, the government of the United States said you were teaching sedition there and indicted you in a jury of twelve men, and you were convicted by the jury of the court, weren't you? A. The American Socialist Society was convicted. There was a verdict of guilty.

By Mr. Stedman:

Q. What do they publish? A. For the publication of the particular pamphlet —

Q. The name? A. The Menace of Militarism by Professor Scott Nearing.

Q. It has been offered in evidence and marked? A. I think so.

Mr. Stedman.— And counsel suggests that Harper Brothers were convicted for publishing the book.

Mr. Cuvillier.— Not for disloyalty.

Mr. Stedman.— It isn't that. I am pointing out the conviction for issuing a book doesn't constitute a crime of the parties affiliated with the organization for disloyalty, no more than the publication of a book for war means that the parties were for war.

By Mr. Stedman:

Q. Were there books published and circulated for war? A. There were.

Q. Pro-war publications? A. Pro-war, anti-war, pro-Socialist, anti-Socialist, and in general on various aspects of public questions.

Q. And of course you were not prosecuted for selling a pro-war book? A. Not as yet.

Q. Did you publish and circulate from your book store anti-Socialist works? A. Yes, works of Yvesguyot.

Q. Malloch? A. W. H. Malloch, of Schaeffle, "The Impossibility of Social Democracy," and others.

Assemblyman Bloch.— How does the sale of these books compare with the sale of the Socialist publications?

The Witness.— I think the Socialist books sell rather better than the anti-Socialist books in general.

Assemblyman Harrington.— I understood you to say that it was not a prerequisite that your instructors be Socialists?

The Witness.— That is correct.

By Mr. Harrington:

Q. Is it a prerequisite that your directors be Socialists?

A. The Constitution of the American Socialist Society — I won't undertake to quote with verbal accuracy, but in substance it provides that those persons may be elected to membership in the American Socialist Society who accept in substance the principles and purposes of the modern Socialist movement. It is very nearly such a wording as that, and the members of the Society are certainly in overwhelming majority, members of the Socialist Party; and the directors, the members of the Board of Directors likewise and the officers of the School have at all times been such persons appointed by the Board.

Q. The Directors from this Society are required to be affiliated with the Socialist Party? A. I ought to distinguish there is a Board of Directors of nine members elected by the Society from among its own membership and of course their qualifications are the same as that which we have just stated for members of the Society.

Q. And no others? A. I don't know of any other qualification. I am called Educational Director; I am not a member of the Board of Directors. I am an employe of the Board of Directors and so are certain others who are concerned with carrying on the School.

By Mr. Stedman:

Q. You have dramatic books? A. Yes.

Q. Books on art? A. On art and literature.

Q. Any by William Morris, Browning, Walter Crane and Ruskin? A. Yes, I think all of these are sold pretty regularly.

Mr. Sutherland.— Mr. Chairman, there is a witness here who must get away and I wonder if we could ask Mr. Lee to be kind enough to step aside?

Mr. Stedman.— I will be very glad to withdraw him. No objection withdrawing him.

CHARLES W. HAGGISON, called as a witness, being duly sworn,
tsetified as follows:

Direct examination by Mr. Stanchfield:

Q. Mr. Haggison, where do you reside? A. City of Utica, New York.

Q. And what is your occupation? A. I am the Clerk of the United States District Court for the Northern District of New York.

Q. And have you been subpoenaed to produce here certified copies of certain records filed in your office for the District Court of the United States, Northern District of New York A. I have.

Q. And do those papers relate to the case of the United States of America against Charles W. Steen, Frank L. Preston and William Hotze? A. They do.

Q. I hand you an exhibit marked No. — what?

The Stenographer.— Exhibit No. 52.

(The paper was received and marked Exhibit No. 52.)

Mr. Stedman.— May I see the Exhibit?

Mr. Stanchfield.— I have the original, Mr. Stedman, of the record of conviction, and the witness informs me that he cannot leave that and I am marking a certified copy in lieu of it.

Mr. Stedman.— May I ask you in your certified copy did you have a sufficient number of the copies of the bills and posters?

The Witness.— No, sir; they are referred to at the end of the copy but are not inserted.

Mr. Stedman.— I mean the contents of them.

The Witness.— Only as copied into them.

Mr. Stedman.— I shall want to read those into the record.

Mr. Stanchfield.—We are going to introduce them.

Mr. Stedman.— I mean to read and describe the contents of the document that is, if it is admitted, after I make my objection.

Mr. Stanchfield.—Well, I have offered it.

Mr. Stedman.— Mr. Chairman and gentlemen of the Committee, I am objecting to this on the ground first, that it purports to

be a transaction which took place after the time the charges were preferred in this case. It appears from the record that was offered that one Steen, Preston and Hotze, residents of the City of Syracuse were sent leaflets and a dodger for the purpose of announcing a meeting in Syracuse at which George R. Kirkpatrick was to speak upon the subject of the liberation of political prisoners. The large dodger contains four pictures. Upon the upper left hand side as I recall was a man in a cell being hung up by the wrists, and on the right hand corner was a group of men being beaten with baseball bats in the hands of a colored prisoner, in the lower left hand corner was the picture of a man who is chained to the bars of his cell and in the lower right hand corner—may I just see it at a distance—there is a picture of a man being held with a rope around his neck, being lifted up off from his feet and permitted to drop back again, and being kicked at the time. Under the laws of the United States, where a person is charged with violating the Espionage Law, truth is no defense; motive is not an issue. The conduct for trade may fall to the deepest depths of infamy and it cannot be shown. These leaflets were circulated in that city to ask people to come to a meeting for the purpose of petitioning and demanding the release of political prisoners. Persons specifically designated were those who had committed no crime against persons or property, but who had been convicted because of their opinions. They were indicted for circulating this leaflet. The charge against them was that they by circulating a leaflet pointing out brutality in military prisons, that they brought the Constitution of the United States into contumely and disrepute, that their language brought the form of our Government into contumely and disrepute; that the effect was to obstruct the enlistment service, not recruiting, not enlistment, but the recruiting service; that is those who operate the office; the other that it created resistance to the United States. Now, while you may be able to see that a jury under the impression that to picture a brutality of a public department brings the form of the Government of the United States into disrepute, that it brings the form of the Constitution into disrepute—and I concede that twelve jurymen and a judge on the bench drew the inference; in other words, the inference in logic which means this: that to point out a brutality of the Police Department means that you wish to change and you are repudiating the Constitution of the State of New York.

No case like it or paralleling it from the day the Espionage Act was adopted in June, 1917, has ever come up to this time.

Now, then, let's concede for the sake of argument that to picture graft in any public department, to picture brutality in a military prison, brings the United States into contumely and disrepute. Let's concede it and that it closes every avenue of protest against conditions of that kind and that to petition the President of the United States requesting the release of political prisoners to-day is prohibited, and we have no right to ask for the release of political prisoners. Let's concede all that which this decision establishes. It does not show that these men here were proposing the use of physical force. There is no connection between these men and Steen and Preston and Hotze; no connection between these men and the meeting in Syracuse that Kirkpatrick was going to address; these men are not charged with picturing conditions which are the truth in the military prisons of the United States. They are not charged with telling a truth or falsehood and if they are not parties to it, under what theory is it admissible in this case?

And I say another thing, it should not come in this case, for I predict in the Supreme Court it will never be decided, but the Attorney-General will confess error, and it will be reversed. Of all the decisions ever rendered in this country during the war, this is one of the most unconscionable ones, and I think it is entirely incompetent.

Judge Garvin is a splendid man, but he was thoroughly mistaken in my judgment in this case.

Mr. Stanchfield.— Mr. Chairman, the argument that Mr. Stedman addresses to the consideration of this Committee, at much more length than quite as eloquently was presented to a judge of the United States Court at Utica, not only upon the demurrer that was interposed to the indictment, but in his opening and summary of the evidence of the case to a jury in the United States Court, with the result that a conviction was had by the jury upon all four of the counts in this indictment. Now, the theory upon which the circulars are introduced in evidence that were referred to and are made a part of the indictment in that case is that they constitute literature, and it so appeared upon the trial, issued from the headquarters of the Socialist Party in Chicago and sent to the defendants named in the record for distribution

among the citizenry of Onondaga county, and that had been held to be a flagrant violation of the law of espionage, a crime against the government of the United States and these defendants were a party to it, and it is a part of the propaganda of the Socialist Party and, therefore, is incompetent upon this hearing.

The Chairman.— Well, you haven't any jury here, Mr. Stedman. You have no jury to decide that question. It may be important in some ways. It doesn't show anything connecting up these gentlemen that I see.

Assemblyman Evans.— Is there any evidence so far that that leaflet was issued by any Socialist Party?

Mr. Stanchfield.— That is the testimony upon the trial.

Mr. Stedman.— I don't want any misunderstanding. That literature was issued by the National Socialist Organization. I may say frankly it was not shown to me. It was sent to a man named Steen. He in turn gave some to Preston, and Preston, in turn, gave some to Hotze, patriotically, as I presume, just as they subscribed for Liberty Bonds.

The Chairman.— Now, you are going to open up that litigation in Utica.

Mr. Stedman.— But these men knew nothing about it.

Mr. Stanchfield.— We are going to present some literature in regard to the Socialist Party and Liberty Bonds, which they designate as slave bonds.

Mr. Stedman.— That may be true.

Mr. Stanchfield.— The defendant testified in answer to your suggestion that he was a member of the Socialist Party and that the circulars referred to in these exhibits were mailed to him as a result of correspondence with the Socialist Party in Chicago.

Mr. Stedman.— They were sent to Mr. Steen; he, in turn, turned them over to Preston, who was not then a member of the party, who, in turn, turned them over to Hotze, who was not then a member of the party.

Mr. Stanchfield.— With the result that all three were convicted.

Mr. Stedman.— Most assuredly; no doubt about that.

Mr. Roe.—Mr. Chairman, I feel that I have a duty to perform, and that is to object to this evidence as totally immaterial and irrelevant. Now, the fact that this was sent out from a Socialist Party headquarters in Chicago has absolutely nothing to do with these five Assemblymen here unless there is some proof that they know something about the literature being sent out, or in some manner approved or condoned it. Now, in the absence of this proof, this is all absolutely immaterial, irrelevant and incompetent, so far as these gentlemen are concerned. If this is to be admitted, then every piece of literature that is sent out from any Socialist headquarters anywhere in the United States, upon which a conviction was had for any purpose, the conviction can be brought in here and can be charged up against these men, and this record lumbered up with it. I say it is a monstrous proposition that such evidence can be admitted here.

The Chairman.—Well, I cannot see how it will hurt very much. Go ahead. I will admit it.

(Messrs. Evans and Bloch dissent.)

The Chairman.—The dissent of the Assemblymen may be noted.

Mr. Stanchfield.—The original indictment by way of exhibits are two circulars, one being a small one in black, and the other being a large one, printed, as the committee can see, partly in black and partly in red, which do not appear attached to and a part of the certified copy that I am offering in evidence. The original, the clerk is required to take back with him to the office in Syracuse.

The Chairman.—I think Mr. Stedman said he wanted it read into the record.

Mr. Stanchfield.—I will mark in evidence the smaller circular forming a part of the indictment.

The Chairman.—That may be received.

(Circular referred to received in evidence and marked Exhibit No. 53.)

Mr. Stanchfield.—I now offer in evidence the demurrer that was interposed upon the trial by Mr. Stedman and the opinion of the court in overruling the demurrer.

The Chairman.—It may be received.

(Papers referred to received in evidence and marked Exhibit No. 54.)

Mr. Stedman.— Of course, I am objecting on the ground that it is an appeal.

The Chairman.— Yes.

Mr. Stanchfield.— I will mark, not for the purpose of reading it, but if I desire to read a few sentences from it. I am going to mark this testimony.

(Transcript of testimony referred to received in evidence and marked Exhibit No. 55.)

Mr. Stanchfield.— Mr. Stedman, do you desire to ask the witness any questions?

Mr. Stedman.— No. I will just ask him one thing? I did not have an opening and closing?

The Witness.— No.

Mr. Stedman.— And they ran in front and rear (laughter).

The Chairman.— The proceeding will take a recess until 4:15 p. m.

Whereupon, at 4:02 p. m., a recess was taken until 4:15 o'clock p. m.

The Chairman.— Proceed.

Mr. Stanchfield.— Mr. Chairman, I purpose to read into this record the essential features of the opinion of the Judge before whom this case was tried on the demurrer:

“ The Espionage Act, so-called, provides in part that whoever, when the United States is at war, shall wilfully utter, print, write or publish any disloyal, profane, scurrilous or abusive language about the form of government of the United States, or the Constitution of the United States, or the military or naval forces of the United States, or the flag of the United States, or the uniform of the army or navy of the United States, or any language intended to bring the form of government of the United States, or the Constitution of the United States, or the military or naval forces of the United States, or the flag, or the uniform of the army or navy in contempt, contumely or disrepute,”—

There is more of it, but that is the essential part.

"shall be fined or imprisoned. It will be observed that these provisions go much further than the preceding portion of the section which is designed to prevent any act openly directed against the successful conduct of the war by the United States. The provisions here involved are obviously for the purpose of preventing the sort of abuse of the form of government, which, harmless in itself, though usually not the utterance of those who believe in our national institutions, is calculated to inflame and arouse the ignorant and vicious to an actual attempt to bring about open disloyalty. The Constitutional guarantee of free speech is unaffected by the conclusion that the pamphlet or handbill involved, rendered conspicuous by the pictures described (which are entirely unnecessary to announce a mass meeting) must be taken to mean that the form of government of the United States and the Constitution upon which it rests have proved inadequate to secure justice for American citizens, who have been not only unjustly convicted (the insinuation is clear that they have been convicted of no offense whatever) but during incarceration have been subjected to most inhuman tortures. Such an allegation, made during a period of war, when loyalty is to a great extent predicated upon belief that the form of government of the United States rests upon liberty and justice, is calculated to bring into disrepute the form of government and its Constitution under which such conditions could exist and likewise its military forces whose members are responsible for the brutalities portrayed in the last described picture. When a mass meeting is assembled as a result of an invitation of this character we may expect that resistance to the United States itself will follow if the meeting is addressed in the manner outlined by the call, and that the demand upon the President to 'Let our people go' will be followed by such action during and after the meeting as indicates a contempt for the Constitution and made for the form of government which will not grant the demand so made. That the utterance be an open attack on the form of government or constitution is not necessary. Indeed the care with which the pamphlet seems to have been written suggests the desire to accomplish the result forbidden by the act without incurring the penalty involved in a violation. But even if this was

meant as a mere announcement of a public meeting, its form was well calculated to have the effect of arousing the contempt, scorn, contumely and disrepute which Congress sought to prevent, and under the well settled principle that one is presumed to intend the natural consequence of his act, the indictment charges a crime."

Mr. Stedman.— Mr. Stanchfield, have you concluded on that?

Mr. Stanchfield.— Pardon me?

Mr. Stedman.— Have you concluded?

Mr. Stanchfield.— You mean as to when we will go on?

Mr. Stedman.— No.

Mr. Stanchfield.— As to the demurrer?

Mr. Stedman.— Yes.

Mr. Stanchfield.— Yes.

Mr. Stedman.— Well, in reply to that I wish to say that while it is true that the Judge seemed to think that mentioning atrocities might arouse the feeling of the people, that is true. That is what it was published for — there is no question about it — but we ought to bear in mind before this Committee, that the truthfulness of it is an important element, and that the atrocities pictured are not as bad as the fact which the pictures portray, and which we could not and cannot prove under prosecution under the Espionage Act. All the methods of the Inquisition were used, from the thumb-screw to the maiden's daughter and the rack. We cannot prove that, because no matter how divine the motive, it is not a defense, the only question involved being: Did the person know that the conduct in distributing these documents, and did they have in mind, the purpose of bringing the form of the Constitution of the United States and the Government of the United States, and so forth, into contumely and disrepute?

Now, it is true the Judge holds — the jury held — that that was the effect: but I wish to admonish you: never hold a meeting asking for the liberation of prisoners; never circulate a petition for clemency, because the greater your sympathy for those you wish to release, and no matter how humanitarian your motive may be, it may land you into a year in Atlanta penitentiary, if this decision should be upheld.

Mr. Cuvillier.— Mr. Stedman, you do not want this Committee to believe that any one who should write the Secretary of War or the President of the United States, asking for the release of a military prisoner, and asking for clemency, that he would be subject to conviction?

Mr. Stedman.— If he portrays the brutal treatment of those persons, I answer yes emphatically; and that record substantiates what I have to say. May I take it for a moment? There is no dispute on the evidence in this case, and the evidence is very short; it is about two hundred words. As soon as he brings it, I will read it.

Mr. Pellet.— What was the date of that meeting?

Mr. Stedman.— Oh, I am glad you mentioned that. The date was one year and one month after the signing of the armistice; not only that but one United States District Court Judge ordered a new trial where a conviction took place, on the ground that the war had been brought to an end when the President declared before Congress, "Thus the war ends," and if you want the ridiculousness of it, the charge in the indictment was giving aid and comfort and assistance to the enemy—a year and a half after the Imperial German Empire was defeated, and Austria—these men, a year and one month after, are charged with assisting the Imperial German Government and the Austrian Government, in carrying on a war against us.

Mr. Cuvillier.— Peace had not been declared, though, only the armistice.

Mr. Evans.— I think this comment on the evidence at this time is just as improper as the evidence itself.

Mr. Stedman.— I think you are right.

Mr. Evans.— I think it ought to be stopped.

Mr. Stedman.— I agree with you on both your propositions.

The Chairman.— I do not think there is any necessity of discussing that case any further; as a matter of fact, you have an appeal pending?

Mr. Stedman.— Surely.

The Chairman.— Go ahead. Is there anything else?

Mr. Stedman.— Mr. Lee was on the stand, unless they have something else.

FRANK WASSERMAN, called and sworn as a witness, testifies as follows:

Mr. Stanchfield.— May I inquire, before Mr. Conboy goes on with the examination of this witness, whether the committee has determined to sit tomorrow? My reason for making the inquiry is, because I am obliged to be in New York on a professional engagement, both tomorrow and the forepart of next week, and I wanted to know definitely whether the committee is to sit or not.

The Chairman.— The committee is inclined to sit tomorrow unless there is some very good reason.

Mr. Stanchfield.— Then will you accept my statement as an excuse?

The Chairman.— Yes.

Direct Examination by Mr. Conboy:

Q. What is your name? A. Frank Wasserman.

Q. Where do you reside? A. 563 Howard avenue, Brooklyn.

Q. And by profession you are an attorney-at-law? A. Yes, sir.

Q. And have an office in the Borough of Manhattan? A. Yes, sir.

Q. At No. 5 Beekman street? A. Yes, sir.

Q. Do you know Assemblyman Claessens? A. Yes.

Q. And Assemblyman Solomon? A. Yes.

Q. Two of these five gentlemen whose qualifications are under consideration in this inquiry? A. Yes.

Q. And how long have you known Assemblyman Claessens? A. I have known him, I think, about four years or more.

Q. And Assemblyman Solomon? A. I have known him about five years or more.

Q. When was the last time that you met Mr. Claessens? A. I met Mr. Claessens in public debate in February of 1917, I think.

Q. And what was the subject that you were discussing in public debate with him at that time? A. Socialism against capitalism, I think it was.

Q. Which side did he defend? A. Socialism.

Q. Did you take the opposite side in that debate? A. Yes, sir.

Q. Did any particular question arise during the course of the debate as to the method to be adopted by the Socialists in acquiring the tools and sources of production? A. It did.

Q. Will you please state to the committee what Mr. Claessens expressed statements were upon that subject?

Mr. Stedman.— Can we have the date?

Mr. Conboy.— February, 1917.

Mr. Stedman.— I want to object to what a man may say in debate. I assume there was some enthusiasm upon the part of both, and possibly both would exaggerate their particular positions. That was before we entered the war, and how would his views at that time be expressive of the party position?

Mr. Conboy.— They would certainly be expressive of his own personal position.

Mr. Stedman.— His position between then and now may change.

Mr. Conboy.— Heretofore I have understood that the expression of party position did not represent the personal views of these five gentlemen, and now it is said the personal views of these five gentlemen do not represent the party.

The Chairman.— You may answer.

Mr. Stedman.— I have not taken that position.

Q. Now, will you answer the question? A. I raised the question of how the Socialist party proposed to take possession of the tools and sources of production, and also raised the Constitutional limitations as to taking possession. When I raised the question of Constitution, it met with mirthful hilarity—

Mr. Stedman.— I object to that as a conclusion.

The Chairman.— That may go out.

A. (Continued.) Mr. Claessens said that the Constitution was a mere scrap of paper, and that the people, when they got control under a Socialist government, would take things by force.

Q. Now, was that all that was said upon that occasion? A. Substantially on that question.

Q. You have also encountered Mr. Solomon in public debate? A. I have.

Q. And what was that occasion, what year? A. Oh, I met him, I think, five years ago.

Q. 1915? A. I think so.

Q. And when was it that the discussion took place at that time? A. At the Independence Hall.

Q. Where is that? A. On Osborne street, Brooklyn.

Q. Didn't you have a discussion with him in October of 1919?
A. Not public — private discussion.

Q. That is, there was no question then as to the heat of debate at all? A. No.

Mr. Stedman.— I object to that. Men privately may be more heated than publicly. I think he should state what was said. There is no evidence that he is an expert on temperature.

The Chairman.— Proceed.

Q. Tell me, Mr. Wasserman, where this private discussion took place? A. After Mr. Solomon met me, I think corner Howard avenue and East New York avenue one night.

Q. That was when? A. During the month of September or October of 1919, last year.

Q. Yes, sir. A. He stopped me, as he very frequently has in the past few years. We have been very friendly, and we got into a discussion, as usual, and I said to him, "Well, are you a Bolshevist?" He said, "Yes, I have so stated in the Assembly chamber." I said, "Do you believe in all that Bolshevism stands for?" He said, "I certainly do." I said, "Do you believe in the methods adopted by the Bolsheviks in enforcing their rule of government in Russia?" He said, "I do." I said, "Do you believe that those methods are in keeping with democratic ideals and democratic principles?" He said, "I do." I said to him, "Did you state that in the Assembly?" He said, "I did." I said, "If I had been there I would have moved your expulsion immediately." And then we went on to discuss other questions. I said, "Do you think that the Bolshevik ideas are adaptable to American institutions?" He said, "Bolshevism is under way. The revolution is under way," that it would come much sooner than I had expected it. I said I did not believe in that kind of doctrine, and we got into a discussion about the Sunday school classes that the Socialists were conducting in Brownsville.

Q. Brownsville is part of Brooklyn? A. Yes, that is the district Mr. Solomon comes from.

Q. Kings county? A. Kings county. I said, "Do you think it is proper for the Socialist party to carry on Sunday schools to teach young children who had not yet matured, teach them the

spirit of hatred, the spirit of irreligion and of revolution?" He said, "We are teaching the children history from the Socialist standpoint." He said, "History as it is taught in the public schools and other instruction given there is all in the capitalist standpoint; we want our children to know it from the Socialist standpoint so that they may be ready for the revolution." I said to him that my impression was that the result of such teaching on young children was to make criminals of them; that they were not capable of grasping the great and deep economic questions in a sensible way and it was folly to do so. I think that substantially sums up our discussion that night.

Q. Was he a member of any of these Sunday schools at which these principles that he advocated were being taught? A. I don't know that, but I know they were conducted at the Brownsville Labor Lyceum, with which he is connected.

Q. Was it in connection with the discussion of the activities of that Labor Lyceum that the subject was brought up? A. No, it grew out of the discussion of revolution. He justified revolution on the ground of the revolution of 1776. He said that was revolution. He said revolution was justified in 1776 and was justified now. I said it was of course quite different at that time. I said the people were fighting at that time against monarchical rule of government, against unjust representation. I said you haven't that in this country. He said he couldn't see it.

Q. Then followed the discussion of the Sunday schools to which you have just referred? A. Yes, sir.

Cross-examination by Mr. Stedman:

Q. Did you ever attend one of the Sunday schools? A. I did not.

Q. Did you ever see one in operation? A. I did not.

Q. The only thing you know of them is hearsay? A. Yes, sir.

Q. And your ideas of Russia are also hearsay? A. Do you mean Russia of this day or as it was?

Q. Were you there at one time? A. I was born there.

Q. When did you leave there? A. I was ten years old when I came to this country.

Q. From what place? A. I don't know; some small town in Russia. I can't recall it now.

Q. Have you by rumor any recollection? A. A place near Moscow.

Q. What is your correct name? A. Frank Wasserman.

Q. Is that your name — A. It was my name in Russia.

Q. What part of Russia? A. I am telling you — Moscow.

Q. Recently, have you any information in regard to Russia?

A. That which I got from the press and from reading books on the question.

Q. What books did you read? A. Amongst the many I read was Espargo's Book on Bolshevism.

Q. That is very recent, isn't it? A. Very recent book.

Q. Did you read the criticism of it in the New Republic, where they pointed out where Mr. Espargo had deliberately omitted lines and paragraphs and changed words in his quotations? A. I have not.

Q. You didn't read that? A. No, sir.

Q. Did you read any other book? A. No. I followed the reports, the testimony given on questions.

Q. Pardon me; I said books? A. No.

Q. You knew that that book was a book written in criticism of it, didn't you? A. I did know that.

Q. And you wanted something to confirm your views of criticism, is that right? A. Not necessarily; I had my views before I read the book.

Q. You just read that to see — A. I wanted to see the socialist standpoint on Russia and to get the socialist standpoint I picked him out as one of the best.

Q. You knew that Espargo had left the party? A. Yes.

Q. And he was very hostile to the party? A. Because of its un-American conduct.

Q. I am not asking you for the reasons? A. I am telling you why.

Q. I am asking you if you knew that fact? A. I did know it.

Q. You knew he was an enemy of the Socialists, an enemy of the Soviet government and country, an enemy of both, and you read his book to confirm your views? A. I wanted —

Q. Answer it yes or no? A. It cannot be answered yes or no.

Q. Then let it pass. A. You asked me several questions.

Mr. Stedman.— I withdraw the question.

Mr. Conboy.— I respectfully suggest, if the Court please, there ought to be a little more temperate tones.

Mr. Stedman.—I really didn't mean to be intemperate; you didn't assume I was, did you.

The Witness.—Assume what?

Q. That I am intemperate? A. Not in the least.

Q. Your business has been to debate with Socialists? A. Not my business at all; my pleasure.

Q. And you have debated with them because you have loved them? A. I have loved Socialists? Well, I have not necessarily loved them, but I love to debate the question.

Q. Then, there are others who believe a little in hate, are there? A. I imagine there are.

Q. Then, what books have you read which purported to state the form of the Soviet government? A. I told you which book I read, Spargo's.

Q. Did Spargo state it? A. Yes, in substance.

Q. Did Spargo state their method of representation? A. I think he does, yes.

Q. And you remember reading it, do you? A. Yes, sir.

Q. Will you please tell us from Spargo, and your knowledge, what the method of representation is as distinguished between citizens' representations and non-citizens' representations? A. Why, I do not recall that particularly. I think he points out there that different industries —

Q. Now, I am asking you first the representation. I will come to that later. A. I do not recall that.

Q. Will you please define a soviet? A. It is pretty hard to define that. I do not think anybody can.

Q. Are you in the habit of measuring possibilities of other definitions by your own? A. I try to judge them by common sense and logic.

Q. Have you read anything from Rhys Williams? A. I have heard him.

Q. Have you read his book? A. No, I heard him in lecture.

Q. Did you read from Armand Thompson? A. I have read his testimony.

Q. I suppose you noticed his train was only four hours late from Moscow to Vladivostak, a distance of some four thousand miles? A. I think so.

Q. And that had developed six railroads? A. Yes, sir.

Q. And they are instituting there about 95,000 schools and a large number of technical schools; you read that also? A. I think he testified to that.

Q. And they enfranchised everyone above 18 years of age; you read that also? A. I do not recall he testified to that. There has been some claim made which I heard.

Q. You do not know whether you have read anything on that? A. I do not recall any such testimony as that. My impression is different.

Q. And on what theory do you criticise the Soviet when you have not in your mind an idea as to its method of organization? A. I have not criticised the Soviet. I have criticised the method of the Russian government in imposing their form of government and the claim of trying to preach humanity, the method was wrong to deprive the Assembly to try and force by majority on the minority by killing was wrong and contrary to constitutional and democratic conceptions of government.

Q. You think it is wrong from the majority? A. From the minority to impose on the majority.

Q. Do you think that applies to the State of New York as well as Russia? A. Every state.

Q. Now, the population of Russia is about 110,000,000, at least, is it not? A. Much more, I understand.

Q. And 97 per cent. of persons who are peasants or workmen, is it not? A. So I understand.

Q. And 3 per cent. were dukes, grand dukes, lords, knights, kings, nobles, czars, weren't they? A. I do not know just what number, but quite a number of them.

Q. The majority was on the side of the peasants and workers. A. I do not think they were.

Q. You do not think the peasants were in the majority? A. I do not think the interests of the peasants were considered by Lenine and Trotzky.

Q. I am not talking about interests, I am speaking about numbers. A. About numbers, I do not think the government are interested in the peasants any more than they are in the dukes.

Q. Peasants elect their representatives, don't they? A. I do not think they had much voice in electing Lenine and Trotzky.

Q. You do not think so? A. Not very much.

Q. You do not know that Lenine and Trotzky were withdrawn when the Sission letters were assumed to be true, and when found

out to be fakes, they were immediately re-elected? A. I do not know anything about it.

Q. You do not? A. No, sir.

Q. Do you ascribe that to the fact that you only read one book?

A. Not at all. I do not think that appears a fact at all.

Q. Did you read the "The Nation" any? A. No.

Q. Did you ever read of the death train? A. No.

Q. You have undoubtedly heard of Kolchack? A. Yes.

Q. Deniken? A. Yes, sir.

Q. Yudenovitch? A. Yes, sir.

Q. And you are familiar with their forms of government? A. I read something about what they propose to do.

Q. Kolshak made himself a dictator, didn't he? A. Well, he did not say so. He said he was trying to institute a government for Russia which would be in accord with their wishes.

Q. Where was this first debate? A. With whom?

Q. The first one you have testified here today? A. With Mr. Claessens, you mean?

Q. With reference to a debate with Mr. Claessens? A. I think it was on Fulton street in Hahns' Hall. Have you the program? (addressing Mr. Conboy).

(Mr. Conboy hands witness the program.)

Q. You kept a program? A. Yes, sir.

Q. Do you keep programs? A. Sometimes.

Q. What is your business? A. Lawyer.

Q. How long have you been a lawyer? A. Nineteen years.

Q. And how long have—you have studied Socialism? A. Some.

Q. Did you read anything about Marx? A. Some.

Q. Did you read the fourth volume? A. All his volumes.

Q. Did you read the fifth? A. There is no fifth.

Q. Is there a fourth? A. I think there are only three.

Q. What is the last one on; please tell us the subject in a few words? A. I cannot recall now what it was; it generally covers the question of capital.

Q. Is that so? Pardon me, I did not mean that. The subject of capital is the title of the general work, is it not? A. Yes, sir.

Q. The first volume deals with one specific phrase, does it not? A. Surplus value, I think.

Q. And the second volume deals with what? A. Well, I do not recall now.

Q. And the third? A. I do not recall now; they are separated.

Q. Yes, they are separated. They are bound in three volumes. What other books have you read on Socialism? A. Hillquit.

Q. Which one, the debate? A. No.

Q. Theory and practice? A. I have read his theory and practice and John Gerrae.

Q. Gerrae's work, you have read it, have you? A. Yes, sir.

Q. Which one? A. On Socialism.

Q. And you remember very distinctly it was John Gerrae on Socialism, is that right? A. I do not recall the exact title, but it was on Socialism.

Q. Do you know what it treated of? A. Socialism.

Q. Do you designate all different and varied phases of Socialism by one term? A. I did not know there were other phases of Socialism, except in different sexes. There is the Utopian School —

Q. Did you find Socialism mentioned and treated in Marx? A. Certainly.

Q. Is the word Socialism mentioned there —

Mr. Conboy.— If you want him to answer questions you must not ask another before he finishes.

Mr. Stedman.— He did finish. Didn't you say certainly to my last question?

The Witness.— Not to the question you asked last.

Mr. Stedman.— Did you say certainly?

The Witness.— Yes, then you asked me a question "Is the word Socialism used there?"

Q. Do you know? A. I do not recall. I do not think it is.

Q. What term does he use to describe his economic theory? A. Well, capital and labor and values and so forth.

Q. And can you give us Marx's definition of capital in a few words? A. Definition of capital?

Q. Yes, or his negative definition. A. I suppose — I don't recall exactly his, but I don't suppose it differs very much from the others.

Q. All right, what others? A. Of all the economists. I don't think they vary in definition of capital, but in use.

Q. Do you think Adam, Smith, Ricordo, Henry George's definitions are the same? A. I don't think there is much difference between those definitions.

A Voice.— Did you use the word "capitalism?"

The Witness.— Capital.

By Mr. Stedman:

Q. Henry George's definition is "wealth to create more wealth." That would apply to any machine, from a lawn mower to a machine in a factory? A. Yes.

Q. Isn't Marx's definition the instrument through which exploitation exists? A. He says so; that isn't his definition.

Q. Let me reverse the definition — that capital is not a thing but a relation between individuals established through the instrumentality of things? A. I don't think so.

Q. What say? A. He defines capital as all the classic economists define capital, but he places the capital in a different way.

Q. You have no doubt read that? A. That is my impression and views of his work as I recall it.

Q. Which volume did you get that out of? A. I cannot recall which volume. I read the book so many years ago.

Q. He states that the principles of the Socialists are hostile to the anarchists? A. In theory.

Q. I mean in theory. A. In theory.

Q. Did you ever read anything from Marx on that subject? A. I think the nearest approach to it is his Manifesto.

Q. Is that so? You never heard of the Poverty of Philosophy? A. I don't recall reading that.

Assemblyman Evans.— What is that? Karl Marx?

Mr. Stedman.— Communist Manifesto of 1848.

Q. Did you ever hear of Proudhon? A. Yes.

Q. Do you remember that Proudhon wrote a work, The Philosophy of Poverty? A. I do not.

Q. And Marx replied? A. I haven't read many of his works.

Q. You didn't follow the debate between the Anarchist and Socialist school? A. No, I have not.

Q. Or between Buchanan and Marx? A. Excepting a brief review I have had of it.

Q. Who published that? A. There is a book, I think, that reviews that,—LaVella reviews the various schools in a brief way.

Q. Do you read Socialist platforms? A. Yes.

Q. Do you read Anarchist platforms, too? A. No, I didn't know they had any.

Q. There is a difference then between them in one way, isn't there? A. There is a difference in theory, as I said.

Q. In practice you think they are the same? A. I think in practice that the Socialists are anarchistic, as I have observed them.

Q. What is that? A. I think in practice the Socialists are anarchistic as I have observed them the past few years.

Q. Do any of them advocate violence? A. Why, yes.

Q. Name a party declaration? A. Not a party declaration; no, sir. There isn't any Party declaration.

Q. I see. A. But I know how they act individually and in public.

Q. Did you ever hear of them rifling ballot boxes? A. They haven't had an opportunity yet, I guess. (Laughter.)

Q. Is that answer satisfactory to you? A. Quite satisfactory to me.

Q. Have you ever heard of them engaged in mob violence? A. Yes. mob violence, yes.

Q. Name the instance and places. A. In 1917, when Mr. Hillquit ran for mayor in New York City there was actual mob violence in every Socialist center. There wasn't an opportunity for any other party speaker to come and advance his views. Any other speaker that came there was mobbed, stoned and hissed by the Socialists there. That is one instance.

Q. Were you a candidate? A. Not that year. I was candidate in 1916 on the Democratic party for Congress.

Q. Were you elected? A. No, I was not. No fault of the Socialists, though.

Q. Any mobs engaged at your meetings? A. No, not that year there was not.

Q. Did you ask for Socialist support? A. I asked the support of all those who were intelligent enough to recognize a valuable servant, to vote for me.

By Mr. Stedman:

Q. Now, appreciating your modesty, will you please tell us where the first mob was that you saw during the Hillquit election? A. Why, in every corner, almost.

Q. I do not want "every." I am satisfied with one to start with. A. There was a mob on every corner of the main street of Brownsville.

Q. Please tell me of one corner? A. Corner of Stone avenue.

Q. Stone and what other. A. Pitkins.

Q. When? A. Why, throughout the campaign period.

Q. Were you standing on that corner throughout the evening?

A. No, I passed by and I saw them from day to day.

Q. Please give me the incident? A. There was one incident when I tried to speak for a candidate — Judge Richards — and I was downed the same as the others.

Q. Did anybody attempt to harm you? A. No, they did not go so far, because proportionately, we still had the law with us.

Q. Nobody did? A. No, but they tried.

Q. You were standing on the platform? A. Yes.

Q. And you were talking to the audience? A. Yes.

Q. And they did not appreciate the wisdom that they were about to listen to? A. They had not had a chance to listen to the wisdom, Mr. Stedman. They gave me no chance to utter any.

Q. But they did not use any violence against you? A. They tried to.

Q. Did they throw a brick at you? A. Yes, they threw some things, but they did not strike me.

Q. You are certain they threw some things at you? A. It was done constantly.

Q. Not constantly; I want to have one instance? A. In Brownsville, Mr. Rieglemann came by with his car and wanted to stand at the corner and speak. He is now our Borough President of Brooklyn, and he was hooted and mobbed.

Q. When you say "mobbed" was he struck? A. He did not remain long enough to be struck.

Q. Was he struck? A. No, I don't think he was, but I think he claims he was nearly struck.

Mr. Stedman.— Mr. Chairman, I think the witness should answer my questions.

The Chairman.— They are allowing a large latitude.

Mr. Stedman.— But when he states that they are anarchists and are mobs, it is not answering the questions.

The Chairman.— Proceed along as reasonable lines as you can.

By Mr. Stedman:

If he will answer the questions, we will get through very quickly.

By Mr. Stedman:

Q. Let me ask you as to what time was this debate called to order? A. Which one?

Q. Claessens'? A. I think around half past eight, probably.

Q. Who was the chairman? A. Mr. Shiplacoff.

Q. Who spoke first? A. Well, now, I don't recall whether I spoke first that night or he.

Q. How long did the first speaker speak? A. I cannot tell you, probably half an hour or so.

Q. Then how long did you speak? A. Half an hour, I think, or 40 minutes. I think the entire debate was two hours, and it was divided up in some way, I do not recall how.

Q. Do you remember, was the method discussed of the manner of taking over private property? A. During the course of the debate?

Q. Do you remember whether it was the former part or the end? A. Why, it was probably in my answer to him, and then in his reply to me; his rebuttal to me; the question arose during my answer to his speech.

Q. I assume you asked him by what method they were going to take over organized industry? A. Yes.

Q. And how did he reply? A. Why, I raised the question of constitutional limitation. "Why," he says, "the Constitution is only a scrap of paper. If people want a thing, they will take it by force."

Q. That is what he said; you remember that very distinctly? A. Very distinctly; it made a very profound impression on my mind.

Q. And has never left it? A. And has never left it.

Q. Did he say anything else at that meeting that made a profound and everlasting impression on your mind? A. His entire debate and general references to country and the flag made an impression on my mind.

Q. Oh, he made a reference to flag, too? A. Yes.

Q. A very scurrilous reference, too? A. It was not very complimentary.

Q. And it was a very scurrilous reference to the country?

Mr. Cuvillier.— What did he say about the flag?

The Witness.— He said the flag did not count; that the red flag was the only flag that amounted to anything, the flag of brotherhood. He said the workingman had no country; this is not their country. That is the line of talk they engaged in.

By Mr. Stedman:

Q. That they engaged in? A. All the Socialists I have met.

Q. They all talk that way? A. Substantially that way.

Q. Is that an inference you are drawing? A. No, I have heard it at their meetings. They won't rise to sing the national anthem, and they will sing with all their gusto and zest the Russian songs.

Q. And from these things you infer, or make the statements you do? A. No, I told you what he said.

Q. There is something else he said? A. You do not want me to repeat the entire debate?

Q. Yes? A. He denounced everybody and everything. Nobody was in good business. Everybody was dishonest. There was not any such thing as law and order and decency in our country, and the workingmen had to take hold of things to run them properly. That is substantially what he said. That is substantially what they all say.

Q. Was he elected after that? A. Yes; the more things of that kind they say, the more votes they get.

Q. Their tactics were bad, were they not? A. I was trying to educate them and enlighten the people.

The Chairman.— You say the more he talked that way, the more votes he got?

The Witness.— Yes, sir; the more the Socialists talk that way the more votes they get.

The Chairman.— In that section?

The Witness.— Yes.

The Chairman.— That is a Socialist section?

The Witness.— That is, of course, a Socialist section; it was not an American section.

By Mr. Stedman:

Q. That was not always a Socialist section? A. No.

Q. They made it that way by these speeches? A. They say they colonized it somewhat.

Q. Was there any violence at that meeting? A. Oh, no, they had not got to the stage of violence yet. The time has not struck for violence. They are waiting for the opportune moment.

Q. Are you a prophet as well as an economist? A. Not at all, but I know them so well from close contact that I am convinced beyond peradventure of doubt that they are waiting for the opportune moment to strike at this country by force. I see it around me every day. It is in the air; it is the spirit that animates that section.

Q. What kind of spirits (laughter)? A. Not the right kind at this time.

Mr. Brown.—Mr. Chairman, I am going to appeal, in aid of the Committee, to the audience to please maintain silence during the examination of the witness. If the witness is amusing and counsel is amusing, it is all the more reason why you should be quiet, so you can remain here.

Mr. Stedman.—I think so.

The Chairman.—I dislike to enforce the rule.

Mr. Brown.—I do not want you to enforce the rule, but I want to appeal to the audience because I know it is exasperating.

By Mr. Stedman:

Q. Do you recall the second debate you had with Solomon of this kind? A. I had one debate in 1914, and Claessens I have met three times in debate.

Q. I am referring now to Solomon? A. I have only met him once.

Q. That was the first debate he ever had, was it not? A. With him?

Q. No, that was his first debate? A. I don't know whether he had a debate before.

Q. Did you keep a memoranda of that debate? A. Of Solomon's debate?

Q. Yes? A. I do not think that I have a memorandum. I may have the general ideas written out.

Q. Oh, do you write out the debates after having them? A. No, before, I wrote out my views.

Q. Did you make any memoranda of what he said? A. I don't think I did; if I did, they are probably destroyed. I may have made them for the purpose of rebuttal.

Q. How long did you speak at that meeting? A. I think something like an hour apiece, something like that.

Q. Do you recall what he said? A. Why, I have some faint recollection of his talk at that time. His talk was about a job, how to get a job for the unemployed.

Q. Do you remember anything else said by him? A. Why, of course, general talk.

Q. Please not "general." State as nearly as you can what he said? A. I say "general," because I have found that every Socialist —

Q. I am not asking what every Socialist said.

The Chairman.— Answer as closely as you can.

By Mr. Stedman:

Q. What did you say that Solomon said? A. He spoke about Socialism, that Socialism was the only panacea for all the ills; that if we had Socialism everybody would have a job and be happy, and be well dressed, and be all right. That is what he said.

Q. It was to that you took exception? A. I took exception, and pointed out it was all false; that the Socialists could not change it.

Q. You did not disagree with what he was after? A. I don't think so, no.

Q. You did not think the method was a good method? A. I do not think that Socialism can bring about the things that they hope to bring about. I did not think so, and I do not think so now.

Q. You do not want to give them a chance? A. Well, if a person comes to me and asks me to change present conditions, he has got to show me some substantial grounds for a change. He has to convince me that the change is going to be profitable; otherwise, I won't change.

Q. Well, you arrived at this conclusion; that the party — that the platform of the party — is entirely hypocritical; that the statement that they desired to make changes by the ballot and constitutional methods are not true; is that right? A. I believe from my observation of the Socialist party and their members, that all their preachments about obtaining their aims through representative form of government, and through constitutional methods, are all false and hypocritical; that they really intend to bring about a revolution; they preach it by their very talk; they

encourage hatred and discontent; they incite riot; they incite all the elements of unrest, and those things must necessarily lead to **revolution**.

Q. You have heard of riots in New York, have you not? A. Yes.

Q. You have heard of riots in Chicago? A. Yes.

Q. You have heard of riots in Omaha? A. Yes.

Q. You have heard of riots in San Francisco? A. Yes.

Q. You have heard of riots in East St. Louis? A. Yes.

Q. In the last two years? A. Yes.

Q. Have you heard of any riots in Milwaukee? A. I do not recall. I won't say that I did.

Q. Did you ever hear that there are some Socialists in Milwaukee, from the Mayor down? A. Yes.

Q. Can you name a riot, even a strike, over color, or over conscription, or over any other situation, in Milwaukee, in the last eight years, or since they have had a Socialist mayor? A. I cannot say that, I don't know.

Q. What do you understand by "revolution"? A. Revolution is simply an organized blow to overthrow constitutional authority.

Q. That is your definition of it? A. Why, it may be varied; that is substantially what "revolution" means.

Q. You think of a revolution in the terms of using organized force outside of governmental functions for the purpose of **overthrowing the prevailing order**? A. That is my idea of a revolution.

Q. And in passing judgment upon Socialists, as they use the term "revolution," you interpret it from your conception of its meaning? A. Why, I tried to divine what their meaning is.

Q. Well, when they use the word "revolution," you think they mean an organized physical force movement to overthrow the State without using the instrumentalities furnished in a constitutional and legal way? A. That is my impression of it, yes.

Q. And that is the meaning you attribute to the term when they use it? A. It depends in what sense they use it. Sometimes they may use it differently. Sometimes they may apply "revolution" to "industrial revolution." It may be an industrial change.

Q. Now, using it in the sense of a revolution against industrial or political society? A. When they use the term "revolution" it means the overthrow of an existing government by force.

Q. Are you a member of any organization in opposition to Socialism? A. I am not.

Q. Are you a member of any political party? A. Yes, the Democratic Party.

Mr. Evans.—May I ask the witness a question, Mr. Chairman?

Mr. Stedman.—Pardon me just one moment.

By Mr. Stedman:

Q. When did you first tell anybody about what you had heard Mr. Claessens say at that meeting? A. Why, when I was asked by the Attorney-General's office if I knew anything of this meeting, I told him what I knew.

Q. Where were you asked? A. In New York. Mr. Conklin, I believe, came to me.

Q. Did he call at your office? A. Yes.

Q. When? A. A week ago Monday, I think it was.

Q. He came to your office and asked you if you knew anything about this propaganda? A. Yes.

Mr. Cuvillier.—Mr. Conklin was a former member of this House for a number of years.

By Mr. Stedman:

Q. And he knew that you had been debating with him? A. He knew I had written suggesting this very course in 1918. I had written an article published in the "Eagle" and "Citizen" advocating and suggesting the expulsion of the Socialist Assemblymen, on the ground of their treasonable conduct during the war.

Q. You say you did that a long time ago? A. 1918.

Q. You were born in Russia, I believe? A. Yes.

Q. Under the Czar? A. Under the Czar.

Q. You lived there ten years? A. Yes.

Q. And you came to this country? A. Yes.

Q. They did not have representative government there, did they? A. No, not very much.

Q. Do you endorse the form of government which prevailed in Russia when you were there? A. I certainly do not.

Q. That was an autocratic government? A. Absolutely.

Q. With a Duma which would come or go at the wish of the Czar? A. In my days they did not have a Duma. It was still worse.

Q. There was no representative government? A. No.

Q. There was no method by which the minority could speak, was there? A. No, not at all.

Q. Do you believe in that? A. In what?

Q. That you should have a system where the minority cannot express its views? A. No, I do not.

Q. And yet you believed that the Socialists should be expelled, in 1918? A. Yes.

Q. Because you disagreed with their opinion as to the advisability of this county entering the war? A. No.

Q. Because you believed they were wrong in their stand on the prosecution of the war? A. No.

Q. Why? A. Because I believed they were not sufficiently loyal to our country; had no appreciation of the fundamental law of our land, and did not purpose to carry out their program through the sources and methods given to us by our fundamental law; because I believed that they were revolutionary and meant to overthrow a government which I love too well to allow them to overthrow.

Q. We will now come back to the question. A. You asked me why I favored the expulsion and I told you why.

Q. I know what you told me well enough. Was that because they were opposed to the war? A. One of the reasons, yes.

Q. Was it because they disapproved our entrance into the war? A. No, it was because they opposed it after we had entered the war.

Q. Did you ever read anything about Abraham Lincoln? A. Yes.

Q. Do you know he voted against war and voted against an appropriation for war and condemned the President during a war? A. I do not recall that.

Q. You read his conduct during the Presidency of President Polk? A. I do not believe in anybody working against his country when it is in war.

Q. Did you ever hear of a man known as Henry Clay? A. Yes, I have read his speeches.

Q. Did you read his speeches against the Mexican War? A. I think I have.

Q. Did you read his advocacy of Kentucky repudiating the war? A. Yes.

Q. Did you read that he had voted against appropriations for the war? A. I do not recall reading that, no. I don't think he did. I am very much surprised to hear that he did.

Q. Well, you have lots of surprises coming to you. Who was present when you were debating with Solomon? A. Talking with him or debating with him?

Q. Debating with him? A. Why, there were a thousand people in the hall, I guess.

Q. Where did you talk with him in New York? A. Harlem Avenue, East New York.

Q. When? A. September or October, 1919.

Q. Who was he with? A. Two friends.

Q. Who were they? A. I don't know them.

Q. What time in the evening? A. Around ten o'clock in the evening.

Q. Do you remember the day of the month? A. No, I don't.

Q. How long did you talk? A. Oh, we stood there, I think, about three-quarters of an hour.

Q. And you told him he was a Bolshevist? A. I asked him if he was.

Q. What was your reason? A. There had been so much talk there and the Socialists of that section—many of them—had announced themselves as Bolshevists, that I wanted to know how he felt about the matter.

Q. Did he reply? A. He said he was.

Q. What did you reply? A. I began to argue with him.

Q. What did you reply? A. I asked him whether he believed in the methods they had in Russia.

Q. What was his answer? A. He said he did.

Q. Did you state what the methods were? A. Yes.

Q. What did you say? A. I said denying representation, killing and murdering and imprisoning people, using terror and force. He said that was necessary in transition states,—always necessary.

Q. That was his reply to you? A. That was his reply to me.

Q. Anything else? A. Then we went on to discuss whether it would be adaptable in this country.

Q. How long did you talk? A. Three-quarters of an hour or an hour.

Q. Standing on a street corner? A. Yes.

Q. You two alone? A. Yes.

Q. Were you animated? A. I was cool.

Q. You were as cool as you have been throughout your testimony here? A. About.

Mr. Stedman.—That is all.

Mr. Conboy.— This that I show you, Mr. Wasserman, is the program of the debate to which you have referred between yourself and Mr. Claessens (showing paper to witness)?

The Witness.— That is the one.

Mr. Conboy.— I offer it in evidence. Any objection?

By Mr. Stedman:

Q. You understand Spargo is not in Russia; that he was born in England, came to the United States and became naturalized a year or two, or after we had entered the war,— you understand that? A. Yes.

Q. And he was not in Russia? A. Yes.

Q. And was not writing about the Soviet from his own knowledge? A. That is right.

Q. Did you ever read a single word of anyone who was in Russia? A. I have not; I have heard speakers who were in Russia.

By Assemblyman Evans:

Q. You testified you read a Communist Manifesto by Karl Marx? A. Yes.

Q. Is it your idea that he wrote it? A. Karl Marx and Engels together.

By Mr. Stedman:

Q. Will you give us the closing sentence? A. "Workingmen unite. You have everything to gain, nothing to lose."

Mr. Stedman.— "Workingmen of the world unite! You have nothing to lose but your change but the world to gain."

The Witness.— That is substantially it.

Q. Do you think they are preaching hatred, do you? A. No, I didn't think Karl Marx —

Q. You answer he was not preaching hatred? A. No.

By Mr. Conboy:

Q. You were not referring to Karl Marx when you spoke about the preaching of hatred? A. No, sir; I was not.

Q. You have been specific? A. To the present instance.

By Mr. Stedman:

Q. Didn't the Americans during the war try to call a conference of the working class of all the different countries, of Socialists, to be held in Washington? A. So I understand.

Q. Didn't the Socialists try to have a meeting of all representatives of all countries to be held in Copenhagen for the purpose of bringing about peace? A. There was an attempt made, yes.

Q. It was prevented by the government, wasn't it? A. Yes.

Q. Passports denied? A. Yes.

Q. Do you think they wanted to go to Copenhagen because they hated each other? A. I don't know what their purpose was in wanting to go there, but I know this, that the Socialists supported their own country in the war.

Q. Did the majority of the Socialists in Italy? A. The majority in Italy.

Q. Approve of the war? A. Yes.

Q. Did the minority party in Great Britain? A. I don't think the minority did.

Q. Where did Kier Hardie stand, Snowden and Henderson? A. But the vast majority of Socialists supported their country during the war and our party refused to do so.

By Mr. Conboy:

Q. That is, the party in our country refused to do so? A. Yes.

By Mr. Stedman:

Q. Did you ever hear of Burns in the cabinet? A. Yes.

Q. He resigned because he wouldn't support it? A. I don't think that is the reason.

Q. Did the minority in France support the war? A. If there was a minority it was **very small**.

Q. Didn't the minority in Germany oppose the war? A. The only minority was Liebknecht alone.

Q. Didn't the majority in Serbia oppose it after their country was attacked? A. Not as I recall it.

Q. Didn't the Russian majority oppose it? A. The Russian majority of Socialists stood by Russia during the war.

Q. You are quite certain that the Russian majority, both Mensheviks and Bolsheviks, supported the war? A. The **Mensheviks** and **Bolsheviks** hadn't split.

Q. You are positive of that? A. Yes. That isn't a fair question to ask. You know that as a lawyer.

Q. I want to know how certain you are about that, that the Mensheviks and Bolsheviks had not separated at the time of the war and that they both supported and approved the war? A. There was no such division at the time of the war. The division arose after the war started.

Q. Well, assume it was before or after. Did the majority of Socialists of Russia approve the war? A. Yes.

Mr. Stedman.— That is all.

By Mr. Conboy:

Q. You are much more familiar with what you have heard Mr. Claessens and Solomon say to you than what was transpiring— A. In Russia.

Mr. Conboy.— This will be marked, Mr. Chairman, if you please.

Q. I understand you are still living under the name under which you were born? A. Yes, the same name.

Q. You haven't changed it by the order of the court? A. No.

By Mr. Stedman:

Q. And don't you know the Mensheviks and Bolsheviks separated in 1903? A. That is not my impression. You may be right; I am not sure.

(The paper was received in evidence and marked Exhibit 56.)

Mr. Stedman.— I would like to ask this witness to come back later.

The Witness.— Oh, no; I can't come back.

Mr. Conboy.— If there is to be further cross-examination it ought to be continued now. It is only fair to the witness.

Mr. Stedman.— I don't like to have a man come in as a surprise and talk about some system —

The Chairman.— I guess we will let him go to-night. Now, gentlemen, any further witnesses you want to put on to-night. Mr. Lee?

Mr. Conboy.— There was some redirect-examination.

The Chairman.— Mr. Lee. You may proceed.

Mr. Sutherland.— Shall we go on now?

ALGERNON LEE, resumed the stand.

By Mr. Stedman:

Q. Mr. Lee, your organization, the Rand School, published books of various kinds and characters, didn't they? A. Yes, sir.

Q. Will you name some of them; as I have used the term published I mean distribute, circulating, to make known, as distinguished from printing; first, I will ask you do you print some books? A. We print some.

Q. Do you sell books published and printed by other houses? A. Very many. Hundreds of titles, perhaps thousands of titles.

Q. Will you name some of the various books that are published and books that are sold, published and printed by other houses?

A. Among those published and printed by other houses I could present a very big catalog.

Q. Just general. A. For one thing, works on Socialism, all the classical works, Marx, Engels, La Salle, Jaures, Hyndman, Hardie, Hillquit, Spargo, Simmons and very many others.

Q. Sonbarts? A. Sonbarts.

Q. And literature and the drama, do you sell works on that? A. Works on plays, works on the drama.

Q. And is that general from Shakespeare and Yates, and Yates to Ibsen? A. I suppose from Sophocles and Yates to Ibsen.

Q. Literary lines outside of the drama? A. Yes, Shakespeare and works upon literature, history of literature, works of the literary criticism.

Q. Can you state in financial terms what the business there amounts to in the course of a month in the sale of books? A. My best information is that during the last few years it has run in the neighborhood, varying, four or five thousand dollars a month gross sales.

Q. Was the Lenine letter published by the Rand School? A. It was not.

Q. Either of them? A. Neither of them.

Q. Do you remember the title of the books? A. I think I mentioned before Scheffele in "Possibility of Social Democracy."

Q. I think you mentioned that. A. And "The Quintessence of Socialism" by the same writer.

Q. And you sold the "New Freedom," by Woodrow Wilson, in large numbers? A. Yes, large numbers of them. I believe we sold his later work "Our First Year of War."

Q. Did you publish a pamphlet on the position of the socialist parties in Europe on the war? A. Yes, sir.

Q. And that states the attitude of the various socialist parties and the individuals, does it not? A. Yes, sir.

Q. By the way, in the case against the Rand School was there any one indicted with the Rand School? A. Dr. Scott Nearing was also indicted.

Q. He was the author of the book? A. He was the author of the book.

Q. And the title was— A. "The Great Madness."

Q. That was submitted to one of the persons who had charge of the literature in the Rand School and they published it? A. Yes, sir.

Q. And Scott Nearing was acquitted for writing the pamphlet? A. Yes, sir.

The Chairman.— Were they tried jointly?

Mr. Stedman.— Yes, and the jury acquitted the author and writer, and convicted the School.

Q. They were tried at the same time, before the same jury, were they not? A. At the same time, before the same jury, yes, sir.

Mr. Stedman.— I think, Mr. Chairman, that is all on cross-examination.

Mr. Berger.— Are you through, Mr. Stedman, now?

Mr. Stedman.— Yes. I may want to recall him for some questions later.

Mr. Berger.— I would like to ask Mr. Lee some questions.

By Mr. Berger:

Q. You have stated, in answer to Mr. Stedman's question, that you published certain philosophical works, certain works of poetry, and so forth, and that you sold those there? A. Yes, sir.

Q. And that is done with the intention of giving the impression, is it not, that in the Rand School book-store there are sold particularly elevating and high-class books, isn't that the purpose of the question, to your mind? A. I do not know anything about the purpose of the question. The purpose of my answer, however, is to tell the truth and to give truthful answers.

Q. Continuing along the line of truth, do you not also display and sell a publication called "The New Solidarity"; yes or no? A. I think very likely that has been so.

Q. You know you do? A. I cannot possibly remember that, but I think it is extremely likely.

Q. And you know that is an official I. W. W. publication? A. I understand so.

Q. And you also displayed and sold a publication called "The One Big Union," a monthly? A. Yes, I know I have seen that on the counters.

Q. And do you know that is an I. W. W. publication, don't you? A. Yes, sir.

Q. And you also sold and displayed a publication called the "Rebel Worker"? A. I am not sure. It is possible.

Q. You have not seen it there? A. Quite likely.

Q. Isn't it a fact? A. I think it is extremely likely.

Mr. Stedman.— We sell all of them, even the Literary Digest.

Mr. Berger.— I am deeply grateful to you for your information, but I am now asking questions.

The Witness.— If I know it not to be a fact, I will say no.

Q. You have not seen it there? A. I think it is extremely likely; I cannot testify positively that I have.

Q. Will you say that you have never seen various copies of the I. W. W. publication known as the "Rebel Worker," in your department? A. I certainly can say I have never seen it.

Q. Won't you be fair enough to say you have not seen it? A. I could not answer it directly; I say it is extremely likely.

Mr. Stedman.— We have the man who is in charge of the book-store and you can ask him.

Mr. Berger.— I am asking questions now of Mr. Lee.

The Chairman.— You gentlemen must cease this controversy one with the other. I do not care to hear it.

Q. And you also sold there, and did sell there, the publication called the "Communist," didn't you? A. That is also extremely likely.

Q. When you say "extremely likely" just what do you mean, Mr. Lee? A. I mean in the Rand School book-store we handle, as I stated before, a general line of books, pamphlets, magazines and papers such as meet the demands —

Q. Of the patrons of the place? A. Of customers who come in, and that includes a very large number of different publications, both periodical, books and pamphlets. I mean, that I frequently am in the book store and frequently buy things there, and frequently buy things elsewhere, and cannot in every case remember positively whether I have seen a certain thing or not. Wherever I do remember it I am perfectly willing to say so.

Q. Do you not remember positively that you have seen various

and numerous copies of the "Communist" there? A. I do not remember it positively, but I think extremely likely it was there.

Q. Do you happen to know what the publication is called the "Communist"? A. I believe it is an organ of a seceding paper issued by a seceding group.

Q. What is that seceding group called to-day? A. Some of them are called and belong to what they call themselves the Communist Party, and some the Communist Labor Party, some of them I imagine are not in any organization to-day.

Q. Do you recall a publication called the "Revolutionary Age" being sold in your establishment? A. Yes, sir.

Q. Will you tell the Committee what the "Revolutionary Age" is so far as it being an organ of any organization is concerned? A. I do not know whether it has any official organ.

Q. Do you happen to know that the entire editorial staff of this "Revolutionary Age," sold and displayed in your place, was indicted, and the chief editor of it, one Gitlow, is now on trial charged with criminal anarchy in New York county? A. I understand Mr. Gitlow is being tried.

Mr. Cuvillier.—Is he a former Assemblyman that was in this body?

Mr. Berger.—Yes, sir.

Q. You also had displayed a publication called "Novy Mir"? A. I think so.

Q. One gentleman named Lenine, and the other named Trotzky were the former editors of that paper; you know that, don't you? A. I had no reason to believe that Lenine—

Q. I beg your pardon. I withdraw that. I should say Trotzky? A. I believe Trotzky—

Q. Lenine was never in this country? A. I believe Mr. Trotzky during the time he was in this country was associated with the "Novy Mir."

Q. Do you know whether it is a fact that the "Novy Mir" is the Russian language organ of the Communist Party of America? A. I think it is, although I am not able to read it myself.

Q. So in addition to these other elevating works you have mentioned here these are also sold there? A. Some of these certainly are; others of them probably are.

Q. In what particular category, your book store, would you put a book called "Love and Marriage," by one Stopes? A. I do not know that name. Who is the author?

Q. One Marie Stopes. A. I do not know the book.

Q. Did you ever hear of her? A. I do not know.

Q. Didn't Mr. Block ever speak to you about it? A. I do not remember that he did.

Q. Are you quite sure about that? A. to the best of my memory I did not. I have no memory of having heard of that particular book. If I should see it probably my memory would be refreshed. I cannot remember that I saw such a book.

Q. Perhaps if I tell you something about the book you may recall it. May I do that, Mr. Lee? A. Surely, as far as I am concerned.

Q. It is a rather interesting dissertation on the choice of sexual intercourse, do you recall it now? A. I do not; that does not help me.

Q. You would not say it is not there, or sold there? A. I cannot say that a thing is not in any place that I have no knowledge of. I certainly do not remember having seen that book either in the Rand School book store or elsewhere.

Q. Do you remember seeing me on the 21st day of June, 1919? A. I remember seeing you about that time, and I suppose it was the 21st.

Q. And do you recall stating this to me: that you were responsible for every book and every publication that appeared in the Rand School book store? A. No, sir; I do not remember making any such statement to you. I could not make such a statement. You misunderstood me.

Q. Yes, perhaps. Do you recall my saying this to you at that time, Mr. Lee: my expressing surprise that certain books which were found in the Rand School book store should be there with you in charge, that is, I expressed surprise that a gentleman of your character, of your standing, would permit certain books to be in that establishment, and then do you recall your reply to me that you were responsible for everything in that establishment, that is, every book in that establishment? A. No, sir; I certainly do not. I do not believe I made any such statement.

By Mr. Sutherland:

Q. Did you become satisfied of the authenticity of the first Lenine letter to the American workmen; you stated there was some dispute about it, or some question raised at the first? A. The question has been raised.

Q. Has it ever been cleared up? A. I do not know that it has been authoritatively, satisfactorily cleared up.

Q. Very well. You have no reason to withdraw anything from

the first sentence in the party endorsement of the Rand School which I read to you, have you, "Whereas, the Rand School of Social Science in New York city now in its thirteenth year of existence is administered by members of the Socialist party, and conducted in the interest of the Socialist movement in this country?" A. No, sir.

Q. You have no reason to withdraw that? A. Certainly not.

Q. Now, let us turn to the question of striking out of this sabotage clause that was inserted in 1912, was it? A. In 1912.

Q. Was there at that time some urgency which led to the insertion of that in your platform? A. There was.

Q. When did Haywood leave the Socialist party? A. I cannot fix the time exactly. It was after 1912.

Q. How long had he been in it? A. Since, I believe, about — I should think about 1905 or thereabouts.

Q. Do you know when he left; can you fix the time? A. I should say within a year or two after the 1912 convention.

Q. After the 1912 convention, within a year or two of it? A. I believe so.

Q. Then he was out, wasn't he, when this Congressional Red Book was issued in 1912 in which the new sabotage plank in your platform was featured and praised as one of the good things about the Socialist party? A. That was issued two years after that convention abandoned that, and in subsequent conventions of the party, the plank, the clause in question, was a part of the party constitution at that time — the echoes of the discussion of 1912 had certainly not died down.

Q. You see from that, that is, the Socialist Congressional Campaign Book, published in 1914, didn't you? A. In 1914.

Q. And there was a congressional campaign on that year? A. That year.

Q. And this book was part of the literature intended to help the Socialist party in that congressional campaign? A. Certainly.

Q. And in that campaign book you put forth this anti-sabotage plank in your Constitution with praise for its presence there?

A. With the explanation of its meaning as a part of the exposition of the whole attitude of the party.

Q. Heyward had got out already? A. I believe he was out at that time. I am not positive as to that — probably was.

Q. Now, do you wish us to understand really, honor bright, that the reason why you attribute the anti-sabotage platform just after war was declared by the United States in April, 1917, was that

the anti-sabotage clause in your constitution had become a dead letter? A. Not because it had become a dead letter, because the issue which had led to its inclusion was no longer an issue.

Q. Was no longer of any consequence to your party? A. In this sense, Judge Sutherland, that it was by that time a clear matter that the Socialist party was a political party dependent upon political action and upon the educational action, which to our mind must underlie any political action to bring about, to realize its aims, and that the party had definitely repudiated and had got rid of that antagonistic conception — conception inconsistent with that — that the struggle for the freedom of the working class was opposed to being carried on by such methods as those of sabotage. That had become for a period a question of the past, and for that reason I take it, in view of the discussions of the time, it was unnecessary to carry in the constitution of the party a clause referring to something that had already become a matter of the past. That was my answer before and that is my answer now.

Q. Mr. Lee, at the very time that the convention was sitting which struck out the anti-sabotage platform, the nation was in its first week of war, wasn't it? A. Yes, sir; war had been declared.

Q. And the party was intensely hostile to the war, was it not? A. It very early clearly declared its opposition.

Q. And your platform said that our entrance into the European war was instigated by the predatory capitalists in the United States who boast of the enormous profit of seven billion dollars from the manufacture and sale of munitions and war supplies and from the exportation of American foodstuffs and other necessities; that was part of your declaration there, wasn't it? A. That was part of the proclamation.

Q. And you called upon your members, principally workers, in this manner: "We brand the Declaration of War by our Government as a crime against the people of the United States and against the nations of the World"? A. That was in your declaration, that is part of the proclamation which was read here.

Q. Did you say also to the world and admonish your party members in the following language: "And we recommend to the workers and pledge ourselves in the following course of action — 1. Continuous, active and public opposition to the war through demonstrations, mass petitions and all other means within our power." A. Yes, sir; we desired to bring as speedy an ending of the war —

Mr. Sutherland.—Wait a minute. Just let me ask questions.

Q. One of the means of putting a hindrance to the capitalistic war was to commit sabotage in the manufacture of war munitions, wasn't it? A. No, sir.

Q. Perfectly apparent? A. No, sir.

Q. Wouldn't it naturally occur to the worker in the munition factory reading this declaration — A. No, sir.

Q. — that the war was brought on by capitalists in this country who had made seven billions of dollars in the manufacture of war munitions and who was urged to use by mass action every means within his power to stop the war, wouldn't it occur to him, naturally, sir, with that declaration from his party put into his hands by his party leaders that the best thing he could do, working in the munition factory, would be to drop a wrench in the machinery and stop the works? A. No, sir; what we refer to there is mass action, and sabotage is distinctly individual action, not mass action.

Q. Now, it wouldn't take a great many people to drop a wrench in a machine? A. If I may say so, in the discussion which resulted in that particular phraseology "Mass Action," it was made very clear that we meant social collective action through demonstrations, mass petitions.

Q. Where was it made clear? A. In the discussion which led to the adoption of that proclamation.

Q. Did you issue any proclamations explaining to your party followers why you struck out the entire sabotage plank? A. I don't think that we did.

Q. No? A. No.

Q. Then the man that was on the outskirts that just read the fact that at the same time and in the same breath when you declared yourselves against the war and its prosecution, when you urged your people on the outskirts to do all in their minds to obstruct the war — A. No, sir.

Q. — therefore, when he reads at the same time that you struck out the prohibition against the use of sabotage, wouldn't he naturally say, wouldn't it naturally occur to a man of ordinary mind, "Well, there is my opportunity to do what I can?"

Mr. Stedman.— I am objecting to this witness passing judgment on what someone else may think.

The Chairman.— Gentlemen, can you proceed to-morrow morning at 10:30?

Mr. Conboy.— So far as we know we can, sir.

(Whereupon at 5:55 p. m., the hearing adjourned to January 30, 1920, at 10:30 o'clock a. m.)

STATE OF NEW YORK — ASSEMBLY CHAMBER

In the Matter of the Investigation by the Assembly of the State of New York as to the Qualifications of Louis Waldman, August Claessens, Samuel A. deWitt, Samuel Orr and Charles Solomon to Retain Their Seats in Said Body.

THE CAPITOL,
ALBANY, N. Y., *January 30, 1920.*

Present:

Hon. Louis M. Martin,
Hon. George H. Rowe,
Hon. James M. Lown, Jr.,
Hon. Edward A. Everett,
Hon. William A. Pellet,
Hon. Edward J. Wilson,
Hon. Charles M. Harrington,
Hon. Harold E. Blodgett,
Hon. Theodore Stitt,
Hon. Louis A. Cuvillier,
Hon. Maurice Bloch,
Hon. William S. Evans.

Appearances:

For the Judiciary Committee:

John B. Stanchfield,
Elon R. Brown,
Charles D. Newton,
Henry F. Wolff,
Thomas F. Carmody,
Samuel A. Berger,
Archibald E. Stevenson,
Martin Conboy.

For the Socialists:

Seymour Stedman,
S. John Block,
William Karlin,
Gilbert E. Roe,
Walter Nelles.

LOUIS M. MARTIN, Chairman.

(The Committee met pursuant to adjournment at 10:35 o'clock A. M.)

The Chairman.— Ready. You may proceed.

Mr. Stedman.— I think Mr. Lee was on the stand.

ALGERNON LEE, resumed the stand.

Assemblyman Cuvillier.— Before we proceed, I want to ask the Attorney-General, has he instituted proceedings which revoke the charter of the American Society, of the Social American Society which was incorporated under the laws of the State of New York.

Mr. Block.— I can answer that question for you.

Assemblyman Cuvillier.— No, I don't want you to answer it.

Mr. Sutherland.— Mr. Berger is not here at present.

Assemblyman Cuvillier.— All right, I will reserve that until later.

The Witness.— Mr. Chairman, I would like, if I may, to call attention to three or four errors which I find in the transcript of yesterday on my answers. On page 948 — it is quite possible that these may have resulted from my having a bad cold and not speaking correctly. On page 948 about the middle of the page "The Chairman: Objection overruled. A. 'I do not know.' The answer should be 'I do not.'

On page 1030 "Q. Will you say that you have never seen various copies of the I.W.W. publication known as the 'Rebel Worker' in your department? A. I certainly can say I have never seen it." The answer should be "I certainly cannot say I have never seen it."

On page 1033 — I just had a chance to get at this this morning * * *.

The Chairman.— All right.

The Witness.— There is another place in which "I do not know" should be "I do not." It doesn't seem to be on page 1036. It is on some other page. Yes, it is on page 1033: "Q. One Marie Stopes. A. I do not know the book. Q. Did you ever hear of her? A. I do not know." The answer should be "I do not." I believe there is one other point.

The Chairman.— If you can find it, Mr. Lee, you can correct it at any time.

Mr. Stedman.— Will you not turn to the question asked of you by Mr. Berger and state whether the question was asked and the answer made?

The Witness.— What question was that?

Mr. Stedman.— The question in regard to this book.

The Witness.— 1033?

Mr. Stedman.— Will you read the question as it appears there.

The Witness.— “Q. In what particular category, your book store, would you put a book called ‘Love and Marriage’ by one Stopes? A. I do not know that name. Who is the author? Q. One Marie Stopes. A. I do not know the book. Q. Did you ever hear of her? A. I do not know.” The answer as it should be, ‘I have not.’”

Mr. Stedman.— I refer to the question where he calls attention * * *.

The Witness.— “Q. Didn’t Mr. Block ever speak to you about it? A. I do not remember that he did. Q. Are you quite sure about that?”

Mr. Stedman.— Go right down to the question I have in mind.

The Witness.— “Q. Perhaps if I tell you something about the book you may recall it. May I do that, Mr. Lee? A. Surely, as far as I am concerned. Q. It is a rather interesting dissipation on the choice of sexual intercourse, do you recall it now?”

Mr. Sutherland.— That wasn’t Mr. Berger’s question. How is it in the record there? (The witness hands book to Mr. Sutherland).

Mr. Sutherland.— What his question was: “It is a rather interesting dissertation on the joys of sexual intercourse.” It is printed here “It is a rather interesting dissipation on the choice of sexual intercourse.”

The Chairman.— I guess your question is right. Proceed. You have got your evidence straightened out now.

Mr. Stedman.—I may say that in the record there may be quite a number of corrections we may want to make as we go through it.

The Chairman.—All right.

By Mr. Stedman:

Q. Mr. Lee, in the publications presented by the Rand School and offered for sale, among them was a publication known as "The Socialist."

Mr. Sutherland.—Mr. Chairman, may I ask that this be suspended until Mr. Berger can be here?

The Chairman.—When will he be here?

Mr. Sutherland.—He is in town but he is engaged in another branch of the work. I will telephone for him. This is on the part that Mr. Berger cross-examined Mr. Lee on and I would like to have him present when it is taken up.

The Chairman.—Well, have him come.

By Mr. Cuvillier:

Q. While we are waiting, I would like to ask a question. You spoke about Mr. Tannenbaum being a professor in the Rand School? A. Being a teacher.

Q. Is that the same Frank Tannenbaum who was instructor in the Rand School, the same one who was convicted in the winter of 1914 for leading raids on churches in New York City? A. I believe he was convicted on the charge of disorderly conduct.

Q. And sent to the penitentiary? A. I think it was the workhouse.

Q. A penal institution? A. Yes; he is now in Columbia University.

Q. For leading a riot on a church in the City of New York? A. I would not undertake to testify as to the exact charge.

Q. And he is the same Tannenbaum who was professor in the Rand School? A. It is the same man to whom you refer.

The Chairman.—Proceed.

By Mr. Stedman:

Q. And he is where now? A. In Columbia University, as assistant in the Department of History.

Q. He is an instructor there? A. I believe his title is assistant in the Department of History.

Q. I do not know whether this question will be competent until Mr. Berger comes: Was a proceeding started in court to revoke the charter of the Rand School? A. There was.

Q. Who brought that proceeding, if you know? A. The Attorney-General of the State.

Q. Was it disposed of? A. It was.

Q. Was there any order entered revoking the charter of the school? A. There was not.

Q. The complaint was dismissed, was it not? A. It was.

Q. What court was that in? A. In the Supreme Court.

Mr. Cuvillier.—Mr. Stedman, I would like to hear the Attorney-General on that.

The Chairman.—You will have to wait.

Mr. Cuvillier.—All right.

Mr. Stedman.—There is no objection. He may be sworn at the proper time as a witness.

By Mr. Stevenson:

Q. Mr. Lee, do you know whether the case was dismissed upon the merits? A. It was dismissed upon the refusal of the State to proceed at the time set in court—I believe upon July 30th, if my memory is correct as to the date.

Q. Was it because the judge refused to grant the adjournment asked for by the Attorney-General? A. The justice's statement—Justice McAvoy's statement—was that a special term of court had been called for the purpose of trying this case; that an agreement had been made in court—I do not know whether I use the right technical phrases—an agreement made in court as to the time when the State would be ready to proceed; that the Society was ready with its defense; the justice was willing to grant a postponement of two or three weeks, but what was asked was a postponement until September or October and the justice said that he did not feel that it would be proper to extend the term of court or to grant such a continuation or postponement as that.

Q. So there was no adjudication on the issues raised on the pleading? A. The State did not proceed with the case at the time agreed upon, nor within two or three weeks after.

By Mr. Stedman:

Q. Who called the Special Term, do you know, at whose motion? A. On the motion of the Senate.

Assemblyman Cuvillier.— Mr. Chairman, for the record, I would like to know and I know the Assembly would like to know the action by the court taken on the motion. If it was dismissed on the ground that the Attorney-General was not prepared to go on with the case, I want to know it, or did the court hold, pending the appeal to the United States Court of Appeals, that this motion was — premature.

Mr. Stevenson.— I may make a statement of what disposition was had of the case. On the motion of the trial judge, without application from the Attorney-General, a Special Term of the Supreme Court was appointed.

Mr. Stedman.— On whose motion?

Mr. Stevenson.— On the judge's own application.

Assemblyman Cuvillier.— That is the trial of a criminal case?

Mr. Stevenson.— It was not a criminal case.

Mr. Block.— If I may say a word?

The Chairman.— I do not see how that is important.

Mr. Block.— Mr. Stevenson was not connected with the case and knows little about it.

Mr. Stevenson.— But — oh, here is Mr. Berger now.

Mr. Berger.— May I very briefly state the case?

The Chairman.— About five minutes.

Mr. Berger.— I can do it in about two minutes.

The Chairman.— Two minutes, that is better.

Mr. Berger.— The case had been set for July 20th by Mr. Justice McAvoy, who on his own motion, entered an order convening a special additional term, Part III, of the Supreme Court, New York County. At the time that this date, July 28th, was fixed, Mr. Justice McAvoy made the statement in court that if either side was not ready at that time, the other side was to be notified. On the 25th of July, three days previous to the 28th, and on the 24th of July, the other side was notified, as was Judge McAvoy — the case was then set for July 30th, being the date fixed on the order of the Appellate Division. On that date, the Attorney-

General was not ready to proceed and asked for an adjournment. The adjournment that the Attorney-General asked for, to wit, an adjournment for a month, was not granted, and the complaint was dismissed, not on the merits, and those words appeared in the order.

Assemblyman Cuvillier.— That is what I want to know.

Mr. Block.— I was the attorney for the school in that action, and I believe Mr. Berger has overlooked one or two facts. Briefly stated, they are these: The Attorney-General obtained, *ex parte*, from Judge Gavegan, an order permitting him to commence an action, a special action to annul the charter of the institution. That cannot be brought about without the signing of an order. He obtained that. He served a complaint and summons, also a set of motion papers, applying for a receiver of the school and also a temporary injunction restraining the school from carrying on any of its functions. The order for the injunction came up before Mr. Justice McAvoy in the Supreme Court on or about July 7th last. We appeared in court, stated to the Court that such a motion, if granted, would have the effect of putting the school out of business before a trial could be had on the merits; that the Trial Court would not sit until October, but inasmuch as this was a matter of vital public interest we, the defendants, would be ready to try the action on the merits the following morning. The Attorney-General stated that he could not try the case on the following morning. The notice was too short, although he commenced the action. We were ready to proceed, and by agreement then and there in court between the Attorney-General and counsel for the defense and the Court the case was set for trial on July 30th at Special Term Part III, of the Supreme Court, Judge McAvoy agreeing, if no other judge could be found he himself would remain in town and try the case. That was what we agreed and stipulated to on the record. Thereafter, so the proceeding should be entirely regular, inasmuch as the trial part of the Special Term does not sit during the summer, Judge McAvoy obtained from the Appellate Division of the Supreme Court, an order setting a Special Term, covering the Special Term, at the end of July, for the trial of this case. That order of the Appellate Division was published in the Law Journal and other legal publications, as was necessary in the circumstances.

We appeared in court on the 30th of July. We were ready to proceed. The Attorney-General came to court, though he stated to me a few days in advance, "We were not ready." We nevertheless stated at that time that we insisted on his being ready, that the defendant was being prejudiced, and that the newspapers were filled with lies and scandals about the school * * *.

The Chairman.—I do not see how this is important.

Mr. Block.—I told this to him, if the Court please, and stated it at the time.

The Chairman.—How does it affect the proceeding here?

Mr. Block.—Because Mr. Cuvillier wanted to know the status of the case.

The Chairman.—The status of the case is that it was dismissed not on the merits but on account of the Attorney-General not being ready to proceed.

Assemblyman Cuvillier.—That is all I want to know.

The Chairman.—Proceed with the examination. This is the end of it.

Mr. Block.—That is not the end of it.

The Chairman.—It is, as far as this suit is concerned. Proceed with the case.

Mr. Block.—That is not all. You wanted to hear about the facts.

The Chairman.—I do not want to hear about it. Never mind. Proceed with the case.

Mr. Block.—If you do not want to hear all the facts, I do not mind. I understood Mr. Cuvillier's question to be directed to all facts.

The Chairman.—Proceed with the case.

By Mr. Stedman:

Q. Mr. Lee, has there been any proceeding instituted against the school since last July, 1919, for the revocation of its charter?

A. There was a motion to reopen the case—I do not know whether I have the right technical phrase for that.

Q. That, I assume, was denied? A. Was denied.

Q. During the eight months that have passed since that time, or seven, has any proceeding been commenced, a new suit, a new petition, any new summons served? A. Against the —

Q. The Rand School? A. No, sir, not to my knowledge.

Q. Well, you would have heard if there had been? A. I am sure I would have heard if there had been.

Q. Will you now state what your participation has been in the activities and work of the Social movement and the Socialist Party? Your affiliation with national and international movements, and acquaintanceship with the persons who have been most active nationally and internationally? A. I have been a member, as I stated yesterday, of the Socialist Labor Party, until 1899, and the Socialist Party since, for a little more than 25 years. During that time I have been a member for several years of the New York State Committee; for several years of the National Committee of the party and, of course, of minor committees; a delegate in some eight or nine State Conventions, and in five National Conventions of the party; a delegate of the Socialist Party of the United States to the International Socialist Congress at Amsterdam in Holland in 1904, and at Stuttgart in 1907. I was elected as a delegate to the International Congress, which should have been held in Vienna in 1914, but the holding of which was prevented by the outbreak of the war.

Q. Do you recall the date that was set for? A. Early August; August, 1914. I was a delegate to the Conference to Socialists of Neutral Countries held at The Hague, in Holland, in 1916. I have throughout the period been active also as a lecturer, teacher, writer and editor. I have edited a weekly,— a Socialist weekly paper in Minnesota for one year. Afterward a Socialist weekly paper in New York, the "Worker" from 1899 until 1908. I was editor of the New York Call in 1908-09, and I have been educational director of the Rand School since 1909. I have frequently contributed, at the request of editors, to non-Socialist publications, as well as "The Independent," the "New York Times Review," the "American Year Book," published by Appleton's, and others, upon Socialism and related questions. I have lectured very extensively for the Socialist Party, for labor organizations, and for many other organizations not connected with the labor movement. I have lectured at the invitation of professors to classes in New York University and in Columbia University.

Q. When you speak of being in Europe, were you attending conventions? A. Yes, sir; we called them Congresses in International gatherings.

Q. Now, speaking of the Internationale, what does that mean? A. In 1889 there was held the first of a series of International Socialist Congresses. That one was held in Paris. Others were held in various other cities.

Q. Before we get to that; do you mean by the Internationale a convention? A. I mean these conventions or congresses, the International Socialist Bureau established by these Congresses, with its executive committee and its secretary which acts in the interim between Congresses, and I mean the Socialist Parties of the various countries as affiliated, as represented in these Congresses and affiliated with this Bureau.

Q. These constitute the Internationale? A. This constitutes the Socialist Internationale.

Q. And it is perfectly visible so that you can see the parties there? A. We make every effort to make it visible to all the world.

By Mr. Stedman:

Q. Are the proceedings published? A. They are.

Q. In how many languages? A. In English, French and German and by the International Bureau itself. They get published in the press, I suppose in nearly all the languages of the civilized world.

Q. In the convention, or international, in what languages are the proceedings translated? A. The custom is that speakers use either English, French or German, whichever is the most convenient for the respective speaker and then the speech is translated into both the other languages. Sometimes there is a delegate who uses some other language.

Q. Were Russian delegates there? A. Russian delegates were at all the conferences I believe, certainly all I attended.

Q. Was it translated into Russian? A. The translation is not commonly made in the other languages than English, French and German unless specially called for, because in Europe most of the educated people know either one of those three languages and it is not necessary to translate into Russian.

Q. Do you recall the Russians who attended as delegates? A. A number of them.

Q. Can you mention some? A. Among them was George Plekhonoff.

Q. That is the party whose name has been mentioned heretofore? A. He was mentioned a day or two ago — a very eminent Socialist writer who died.

Q. What one did he attend, do you recall? A. He was in the congresses where I was present, at both, in 1904 and 1907. I believe he attended practically every congress from the one in 1899 on. Another was, some other of the Russians——

Q. Before we come to the next. Do you know what party he belonged to in Russia?

Mr. Conboy.— At what time?

Mr. Stedman.— First I will fix whether he belonged to the party. I will withdraw the question.

Mr. Sutherland.— Can't we have the places where these congresses met stated?

The Witness.— In 1904 at Amsterdam, in 1907 at Stuttgart. Of course there were many others but I speak of the two where I was present.

By Mr. Stedman:

Q. Were there more than one party in Russia? A. There were several parties in Russia.

Q. Can you name them? A. Primarily there were the Socialist Democratic Labor party ——

Mr. Sutherland.— When was this?

The Witness.— I speak of the period of 1904 and 1907 and with regard to any changes that took place I would state them if I might have the opportunity. At that time in 1904 and in 1907——

By Mr. Stedman:

Q. Well, there were different parties as late as 1914? A. Before this and after this.

Q. And in 1915, 1916, 1917, 1918 and 1919? A. And on to 1920.

Q. At the present time there are? A. Yes.

Q. Now, will you state referring to Plekhonoff, do you recall to what political party he belonged to? A. The Social Democratic Labor party, and at the time when that became divided in 1903, or else very early in 1904, into two factions which

amounted to two separate parties, in practice known as the Bolsheviks and Mensheviks. Plekhonoff was one of the leading members of the Mensheviks.

Q. Will you state the distinction tersely between the two?

A. With the regard to the meaning of the words of the names, at a congress of the Russian Socialist Democratic Labor party a division came and the one group came to be known as the majority; the other as the minority. Bolsheviks in Russian means the members of the majority, Mensheviks, the members of a minority; and regardless of whether one or the other was actually in the majority, that might not be ascertained, these names stuck to the two groups.

The Chairman.— Well, the Bolsheviks represented an element that wanted to overthrow the government by force, and the Mensheviks did not?

The Witness.— I think, Mr. Chairman, that would be not at all a correct description.

Mr. Stedman.— The public has that impression and I think they are very much mistaken.

By Assemblyman Cuvillier:

Q. The Bolsheviks are called the "whole-hoggers?" A. I do not think that would be correct.

Q. And the Mensheviks were called the "thin-enders?" A. I don't know who did that calling.

Q. The Bolsheviks represent the Maximillianist theory of Socialism? A. No, Bolshevism is not equivalent to Maximilianism.

Mr. Stedman.— State the difference between the Social Democrats, the Bolsheviks and different parties.

The Chairman.— Make it as brief as you can.

Mr. Sutherland.— We want the dates now of which he is speaking. These changes have been so frequent that we want the dates.

The Witness.— I speak of 1904 and the period since. If there is anything that would not apply to that whole period, I will try to indicate so. The Socialist Democratic Labor Party, which had existed since the early '80s, became, about 1903 or 1904, divided

into two groups, which I have mentioned; besides this there existed the Social Revolutionists — “S. R.” they were commonly called — and besides this there existed the organization known as the Bund, a word which means federation, which was the organization of the Jewish Socialists of Russia, Poland and Lithuania, and other minor groups, but these were the principal groups.

The division between Bolsheviks and Mensheviks involved many incidents of method and tactics to be pursued by the Socialist movement under the conditions then existing and subsequently existing in Russia. One notable difference that became very clear in the days of 1905 and 1906, when, as you will remember, Russia came very near — the Russian Government of the Czar came very near — to overthrow —

By Mr. Stedman:

Q. Just one question: You now refer to a strike in which even the lawyers joined, professors and businessmen, insisting on the right to vote, when the professional and industrial classes of Russia struck? A. That was an important incident of the revolutionary clashes of 1905–1906.

Q. Proceed. A. During that period the Mensheviks were in favor of depending very largely upon co-operation with such elements as the Constitutional Democratic Party — cadets, as they were commonly called —

Q. By the way, you may state what cadets are. A. The word “cadet” is simply a pun on the initials of the Constitutional Democratic Party. It is the party, or was the party, which represented the so-called liberal bourgeoisie, certain classes of the business classes and professional classes of Russia, who desired a constitutional government in Russia, desired the abolition of the monarchy, but were not Socialists.

The Chairman.— They were liberals?

The Witness.— They were very close to what you would call liberals in other European countries.

By Mr. Stedman:

Q. Or progressives? A. Or progressives, perhaps. The Bolsheviks did not believe that it was practical to depend upon coalition with the cadets in such a struggle. They believed that it

was necessary for the working classes, represented by the Socialist parties, to take a clearly independent position. That was a very important element of the distinction between them. The Social Revolutionist Party appealed very much more largely to the peasants than to the urban and industrial elements of society, was more especially interested in the land question than in industrial questions, in the narrower sense of the word. You asked me about other Russian Socialists?

Q. I have asked you now about the Social Democratic Revolutionists. A. I think I covered that.

Q. They were not a physical force party at that time, were they? A. In Russia every party that desired any progress, political, social or economic progress, was in a position where it was exposed to persecution, the most bitter repression. I do not think that any of the Socialist parties or any Liberal or Progressive Party in Russia would have repudiated the use of physical force. That was not the distinction between the Social Revolutionists or the Social Democrats, nor between them and the Constitutional Democrats and other important Liberals. The character of the government and of the conditions was such that the mere possession of books such as, we will say, Buckler's History of Citizens, or Darwin's Origin of Species might be enough to send a man to Siberia or to prison for years; and under those conditions every element which was in any sense actively discontented with conditions was engaged at times in the use of force to defend itself.

Q. Will you define the Mensheviks? A. The Mensheviks were and are, that group or that faction of the old Social Democratic Party — I may say for some years past now, the division between those has become so sharp that we may no longer speak of a party including them both — the Mensheviks, in contrast to the Bolsheviks, were those who believe that the practicable method of progress for Russia was one of coalition, or cooperation, with Constitutional Democrats —

Q. We call it fusion here? A. I suppose so — even at times with a party known as the Octobrists.

Q. Who are the Octobrists? A. The Octobrists were, since 1906, a party who supported the idea of monarchy, but of somewhat constitutional monarchy. They took the so-called October manifesto — the Czar's manifesto of 1905 — which established the Duma, as their platform, and said: "If we can have that, we are satisfied." Of course, even that was very rapidly taken

away by the government. I say, then, the Mensheviks, as distinguished from the Bolsheviks, believed in the practicability of Russia making progress toward political and economic liberty by a coalition of these forces with such forces as those of the Constitutional Democrats and the Octobrists, bringing about as much liberalism of the government as might be practicable from time to time; bringing about a larger degree of freedom of thought, of speech, of the press, of organization, and so forth, in the hope that each forward step would lead to other forward steps.

The Bolsheviks maintained that this was, in Russia, a utopia, an impractical program; that inevitably the forces of the bourgeoisie would not keep faith with the industrial proletariat nor with the peasants in such a struggle, but would, after using them to win certain demands from Czarism, would then abandon them. I believe that Russian history since that time has justified that fear.

Q. Kerensky represented the Menshevik regime, didn't he?

A. Strictly not. Kerensky belonged to still another group, which I failed to mention, the group known as the Trudoniki, or, as it has been commonly called in the dispatches the group of —

Q. But the Bolsheviks overthrew Kerensky as a regime, that is, Lenin and Trotzky did, who represent the extreme element of force and of destruction in the Party? A. I don't think that is strictly the fact.

The Chairman.— I don't want to be arbitrary, but how much have we to have of this? Your idea is to make an outline of the Russian situation?

Mr. Stedman.— Yes, because we have spent four or five days on this literature here.

The Chairman.— All right.

Mr. Sutherland.— May I make another suggestion, Mr. Chairman? This is not of course cross-examination, concerning any subject that we brought out from Mr. Lee. It is entirely within your Honor's good judgment now whether this subject will be entered into. We didn't expect to go into it this morning.

Mr. Stedman.— I will ask one question and then I will take the suggestion from the Committee.

By Mr. Stedman:

Q. Mr. Lee, was the Kerensky government overthrown or did it collapse?

Assemblyman Cuvillier.— That is a matter of opinion.

Mr. Stedman.— Yes, you had your opinion a moment ago and I want to get from the witness his opinion.

Mr. Sutherland.— That is a question of fact.

The Chairman.— The objection is overruled because I do not think anybody can answer it anyway. You can all guess at it but you cannot answer it.

Mr. Stedman.— I have no doubt if we are able to answer it you will permit us to do it.

The Chairman.— I will permit you to do it.

Mr. Stedman.— By people who know.

The Chairman.— I would like to know it myself.

Mr. Stedman.— If the Committee hold to that rule we will show you before we get through.

The Chairman.— Make it as brief as you can.

Mr. Sutherland.— How does your Honor rule on this question?

The Chairman.— Objection overruled.

A. My answer would certainly not be from personal knowledge, but as a student of political Russian history; it is that the Kerensky government definitely collapsed; that its policy turned against it the overwhelming majority of the people, and particularly the great mass, some millions of peasants and workmen, who constituted the armies both on the front and in the interior, and that by its efforts to suppress all expressions of discontent during the summer of 1917 it cut from under itself all popular support, put itself at the mercy of reactionaries of the Kerniloff type, so that the only alternative was either the return of the Czarist reactionaries or the triumph of the popular forces.

By Assemblyman Cuvillier:

Q. You know that German money was used by Trotzky and Lenine to overthrow the Kerensky government? A. I know nothing of the sort, and as a student of history I am convinced that that statement is untrue.

Mr. Stedman.— We cannot possibly get two persons who know two opposite facts to both agree.

Assemblyman Cuvillier.— I am in a position to know it is the truth.

Mr. Stedman.— I have no doubt but what the Committeeman may be sworn and testify as a witness. I am not going to pursue this with this witness.

The Chairman.— Your suggestion that they having introduced certain documents here concerning the Russian situation that you desire at this time, even though it isn't quite proper cross-examination, to clean it up, the Chair is inclined to think it is a very good time to do it. This will have to come and it might as well come Friday as any other day, and it is quite proper to give you the benefit of it.

Mr. Stedman.— We also have the understanding that we can prove from persons who know the actual situation in Russia.

Mr. Cuvillier.— If you can prove it.

The Chairman.— Oh, well, now, Mr. Cuvillier.

Mr. Stedman.— I am quite willing to know the Committee-man's position, because these men who are strongest against you fight the hardest for you when you convince them.

By Mr. Stedman:

Q. Mr. Lee, I was leading primarily up to the present time to the relation of the representatives of these different parties in the Internationale. A. These different parties were all represented in the Internationale.

Q. Now, was there — A. May I add —

Mr. Sutherland.— For what Internationale or what conference or convention is he now speaking?

The Witness.— I am speaking from personal knowledge of the International Congresses of 1904 and 1907 and from my own knowledge as a student who has read the proceedings of the International Congresses for the whole series from 1889 down to 1910 and of incomplete gatherings since 1910 and for the matter of that also, of the International organization prior to 1889.

By Mr. Stedman:

Q. Their proceedings are published, are they not? A. Their proceedings are published.

By Mr. Stevenson:

Q. Mr. Lee, the Internationale you refer to was the so-called Second Internationale, was it not? A. It is very commonly referred to as the Second, beginning in 1899.

Q. And that is the Internationale, your party has just declared to be dead? A. I don't know that the party has so declared or not.

Q. You have in file the reports?

Mr. Stedman.— I think the referendum will clear that up.

The Chairman.— Gentlemen, proceed along regular lines.

Mr. Stedman.— I am very glad the question has been asked.

The Chairman.— I am not going to have this indiscriminate questioning here. I want Mr. Stedman to proceed with his witness.

Q. Mr. Lee, there was a First Internationale broke up as a result of a conflict between the Anarchists and Socialists? A. From 1864 to 1873 and even a little later there existed a body known as the International Workingmen's Association. That came to an end practically in 1872-73, and chiefly through the conflict between the Socialist elements and the Anarchist elements as represented, let us say, by Karl Marx and Michael Bachunin respectively.

Q. And you would include Proudhon? A. Proudhon, if I remember, was dead, but his influence was there on the Anarchist side.

Q. But the conflict started between Proudhon and Marx?

Mr. Sutherland.— I ask that the last answer of the witness be read. I think possibly he may want to correct next to the last word.

Mr. Stedman.— I would say Marx represented the Socialists.

Mr. Sutherland.— Let his answer be read to Mr. Lee. (The answer of the witness was then read by the stenographer.)

By Mr. Stedman:

Q. Mr. Lee, Marx represented the Socialists? A. Yes, sir.

Q. Proudhon and Bachunin the Anarchists? A. Yes.

Q. And that convention went to pieces, that Internationale?
A. Yes.

Q. That is, the First Internationale? A. Yes.

Q. Then the Second Internationale came into existence representing the Socialists? A. Representing the Socialist Parties of the various countries,— and I was about to say in completing my answer to a question you had asked, in the International Congresses of the so-called Second Internationale, it has very commonly happened that there existed divisions within the Socialist Party of any country or existed two or three distinct Socialist parties in one country, and usually these were all represented in the International Socialist Congresses, provided that they were Socialist parties, that they met the tests of the Internationale.

Q. For instance, the United States had a Socialist Labor Party and a Socialist Party? A. The United States had a Socialist Labor Party and a Socialist Party.

Q. Both had delegates? A. Both represented.

Q. In England there was? A. The Social Democratic Party and the Independent Labor Party, later the Labor Party.

Q. And in France? A. In France, in 1904 in France there were either four or five Socialist parties which, however, succeeded in getting together into one, a year or two later in uniting. They were all represented in the Congress at Amsterdam.

Q. Will you define bourgeoisie? A. The nearest equivalent or synonym to bourgeoisie is capitalist class.

Q. Will you define proletarian? A. Proletariat, we mean the wage-working class.

Q. Do you mean by that exclusively manual worker? A. No, sir; it has no reference to the nature of the work. It had reference to the person's economic position in society. There are persons who get their income by owning means of production, productive wealth which other people operate, either as wage workers or as tenants or lessees. There are persons who own the things with which they work as, for instance, the small working farmer or the self-employing artisan. There is in all modern civilized countries a very large growing class of persons who do not own the means of employing themselves and who, in order to work and get a living, must sell their services, sell their labor power whether it

be in what we call manual or what we call intellectual work, any kind of work for wages which are sometimes called salaries. I have known of people who were proud of getting a salary of \$12 a week rather than wages of \$20. It is a distinction only of words, and it is that fact of having to sell one's services in the labor market that constitutes one a wage worker or proletariat.

Q. That would be true whether the compensation was one dollar a day or fifty dollars? A. That would be technically true. However, I may say this: If it came to \$50 a day, that is, \$15,000 a year, I should say that is one of those cases where you practically get out of the class through the matter of science.

Q. I am not speaking of the psychological effect on his associates, but as to his position in the economic situation. A. Technically he would be in that group; practically he would not.

Q. He would act with the others? A. He would act with the others for this reason: That such a salary as that would very soon put a man in a position where he wouldn't have to sell his services, where he could be independent.

The Chairman.—Do you class any of the professions in that class?

The Witness.—Within recent years, especially a good many professional workers are passing into the position of proletarians. Yes, sir; that is true of many physicians, dentists, engineers, chemists. I believe it is even true in the legal profession that there is a considerable number of lawyers who do not establish an independent practice but are employed for a wage.

By Mr. Stedman:

Q. From a thousand to two thousand a year? A. And it is particularly true of teachers.

Q. Lawyers who write splendid briefs and the lawyers who hand them up to the court pay them for their services? A. Yes, sir; I believe that is true.

The Chairman.—Proceed.

Q. Now, will you state in a general way, because it would be a matter of defense, perhaps, to introduce the resolutions, but you may state the attitude of the Internationale on the subject of war.

Mr. Sutherland.—Mr. Chairman, that is something which counsel suggests would be shown by resolutions. Now—

Mr. Stedman.—If there is going to be a contest on it I withdraw it.

Mr. Sutherland.—I think the Committee ought to have the documents.

Mr. Stedman.—The question is withdrawn at the present moment.

By Mr. Stedman:

Q. Did you take an attitude on the subject of war? A. Yes, sir.

Q. Don't state what it was. A. Yes, sir.

Q. Was that attitude theoretically in all countries the same?

Mr. Sutherland.—I object to that, Mr. Chairman, on the ground that it appears that those attitudes are expressed in resolutions or platforms, and we should have the documents themselves instead of the witness's opinion.

Mr. Stedman.—Well—

The Chairman.—Overruled. You may answer.

Mr. Stedman.—He can take your book and read them off.

The Witness.—The attitude of the declarations of the Internationale as applied to various countries?

Q. Yes, sir. A. So far as varying conditions in different countries would make possible the application of the same ideas.

Q. Did any of them declare, of the Internationalists, in favor of the war? A. Any International congress or International organ?

Q. Yes, sir. A. No, sir.

Q. How many conventions have you attended in the United States of the national conventions? A. Six; I think I said five a little while ago; I think it is six.

Q. And the party took an attitude on war at these conventions, did it? A. It did at most, if not all, of them.

Q. After the war broke out, do you know what the attitude of the Socialist party of Russia was? A. Antagonistic.

Q. What was the attitude in Serbia? A. Shall I answer the question with regard to Russia?

Q. I thought you did. A. That in Russia the Socialist parties opposed the war policy of the Russian government. In Serbia the same, the Socialists opposed.

Q. Will you continue in Roumania? A. In Roumania there was division.

Q. I mean the majority. A. But I believe the majority opposed; it is hard to state about the majority in such a country as Roumania; the sources of information are—

Q. In Italy? A. In Italy, the party almost unanimously took a sharp attitude. There were a few secessions on the part of the party.

Q. In England? A. In England, the Socialist Democratic Party split; the minority gave its support to the government and took the name of the National Socialist Party. The majority adhered to the International position of opposition to the war. The Independent Labor Party—

Q. Before we leave that, who are the permanent leaders of that party? A. The most permanent leader in the Socialist Democratic Party, or the British Socialist Party, as it has come to be known at that time, was H. D. Hyndman.

Q. How long had Hyndman been a Socialist? A. Since at least forty years ago. He took the attitude of supporting the government, and was followed by only a minority of his party.

Q. And the opposition, who were the leaders? A. The names known in the opposition are considerably less familiar,—Dora Montefiore.

Q. She is an educator? A. No, I think not. She was one of the leaders in the majority group. Kent, Inkpen or — pin —, they are men less known.

Q. Proceeding, now what was the name of that party? A. That was the Socialist Democratic Party or the British Socialist Party. Its name had just been changed.

Q. What party was Keir Hardie affiliated with? A. Until his death, he was one of the foremost members of the Independent Labor Party, which he helped to found, in the early nineties.

Q. That was a Socialist Party? A. It was so recognized throughout the world.

Q. And of what party was Philip Snowden? A. In the same party, of the Independent Labor Party. Ramsy McDonald of the Independent Labor Party. The Independent Labor Party you asked me about?

Q. Yes, sir? A. Took an attitude of opposition to the war, of open and active propaganda to bring about the speediest possible ending of the war, and to bring about a lasting and assured democratic peace. It took the Internationalist position.

Q. Were any of these men members of the Parliament? A. Yes, sir.

Q. Or held any other official position? A. Keir Hardie was a member of Parliament; McDonald, Snowden and several others.

Q. Were any in the administration? A. No, none of these men were.

The Chairman.—What about Henderson?

The Witness.—Henderson was in the administration. He was a Labor Party man, and Henderson's attitude during the earlier period of the war was much less pronounced than that of Keir Hardie, McDonald and Snowden and others. He was after, about a year, a member of the ministry. First as Minister of Education and afterwards Paymaster of His Majesty's Forces. He then left the government, resigned his position, and took an attitude of opposition to the government policy.

Q. What was the position of the French Socialists, if you know? A. In the beginning of the war, the French Socialist Party, as a whole, gave hearty support to its government in what it declared to be a war of national defense against actual aggression and invasion. It voted the credits, that is to say, voted war appropriations unanimously at first. It, however, from the beginning reiterated its declaration of its opposition to war as such. It did not hesitate to say that the French government had its share of responsibility for bringing on the European war. It did not cease to point out the economic causes of war, which it and other Socialist parties had been pointing out before. It held that it was necessary to repel the German invasion. It declared, however, against a policy of war to the death; against a policy of annexation and reprisals; it expressed its desire, as the representative of the working masses of the French people whose interests it held to be identical with those of the working masses of Germany and of every country, to bring about not only a peace as early as possible, but a peace upon such basis as would remove the causes of war in economic imperialism and in capitalism generally which had brought about this tragedy upon France and the world.

Assemblyman Cuvillier.—Mr. Lee, Mr. Doret is the member of the Socialist Party in France who was assassinated by a patriotic man for taking this patriotic stand?

The Witness.—He was assassinated on July 31st.

Assemblyman Cuvillier.— And the man that assassinated him is free to-day?

The Witness.— There were several that were murdered. I understand that there are three.

Q. Proceed. A. As the war proceeded and a minority or, rather, two minorities appeared within the French Socialist Party. About 1916 one of these minorities had gained very considerable strength. There was a small minority found referred to as Kienthalers. This was a very small group who took their name from a small town in Switzerland, where a conference of Socialists of several countries had taken place.

More significant to my mind was the minority of the French Socialist Party, led principally by Jean Longuet, a grandson of Karl Marx, which, through the later 1915, 1916 and 1917 was steadily growing and, if I remember rightly, in the summer of 1916 had about 40 per cent of the strength of the French Socialist Party behind it, which was vigorously antagonizing — very openly antagonizing — the imperialistic policies of its government and calling for a peace by negotiation, without negotiation or indemnities; calling for an appeal to the peoples of the warring countries to bring about peace even though some or all of their governments might be unwilling to do so. That minority, I believe, has subsequently become very definitely the majority in the French Socialist Party.

By Mr. Stedman:

Q. When you speak of these parties in all these countries you mention — even in Russia — during this period these men were representing them in the legislature or parliamentary bodies of the country? A. Not in Roumania — in all other countries. In Roumania no Socialists were elected until this year, when we elected 13 a few months ago.

Q. And during the war, when this opposition was carried on, they were members of parliamentary bodies? A. They were members of parliamentary bodies and spoke in parliamentary bodies and through the public press.

Q. They were not excluded because of their views? A. No. The same conditions existed in Germany also.

Q. When was the last International called to meet? A. In August. It should have met in Vienna in August, 1914.

Q. Doret, when he was shot, had just returned, had he not, from Belgium, where they were attempting to hold the International to get the representatives of the working class of Germany together, and others, for the purpose of preventing the war through a general opposition of the working classes of every country? A. Yes.

By Assemblyman Cuvillier:

Q. Don't you know that Doret, through the Socialist Manifesto, asked the conscripted soldiers of France not to go to France's rescue at the time of the German invasion, August 7, 1914? A. Doret had been dead seven days, on August 7, 1914. Doret was shot on the evening of July 31st.

Mr. Stedman.—I have no doubt that the Committee know that Doret issued this, although he had been dead seven days before that time.

The Chairman.—How is it important on this issue whether he was dead or alive?

Mr. Stedman.—Only the Committee makes it so.

The Chairman.—You gentlemen can discuss that Saturday. Now, go on with the rest of it.

The Witness.—He had just returned — Doret had just returned — from a meeting of the International Socialist Bureau, in Brussels, at which he gathered as many as possible of the leading Socialists of the principal countries of Europe —

The Chairman.—All Germans?

The Witness.—Of all countries, among whom were Germans, Englishmen, etc.

By Mr. Stedman:

Q. Scandinavians? A. Yes, and Italians, but none of the Balkan States was represented because it was too far away.

Q. The question was asked whether Doret asked conscripted soldiers not to go to the rescue of France. There was a man named Bernard Shaw, who said that the soldiers should shoot their officers and go home, did he not? A. Yes.

Q. He is still at large? A. Yes.

Mr. Conboy.—He is a Socialist?

The Witness.— He is a member of the Socialist Party.

Mr. Stedman.— The point is that he is still at large.

Mr. Conboy.— Yes, he is still at large.

Mr. Stedman.— Not very still. He is quite active.

By Mr. Stedman:

Q. Mr. Lee, let us proceed now to Scandinavian countries. Are they represented in the International? A. By all means.

The Chairman.— Is this the third International?

Mr. Stedman.— Yes, the same one. All these were repeated conventions?

The Witness.— Yes.

Mr. Stedman.— By the way, how often do the International meet?

The Witness.— From two to four years.

The Chairman.— I do not see how anything is important here except the third.

Mr. Stedman.— Well, the third has hardly come into existence yet.

The Chairman.— I mean the manifesto that was sent out — the second.

Mr. Stedman.— You mean the Moscow?

Mr. Sutherland.— That is the third.

By Mr. Stedman:

Q. In following this other matter just a few minutes — Sweden was represented, was it not? A. Yes.

Q. And the Swedish Socialists opposed war? A. Yes.

Q. And Norway opposed it? A. Yes.

Q. In Norway and Sweden the Socialists opposed war and prevented war between Norway and Sweden when they separated? A. Yes, that was some 15 years ago.

Q. And prevented erecting forts between the two countries? A. Prevented war for the preparations for war between Sweden and Norway.

Q. Now, the attitude of the Socialists on war, in Germany—

A. The majority of the representatives—of the Socialist representatives—of the German parliament, when the actual eve of war came, decided in favor of voting the war credits. There was a difference of opinion among them. They did it with some hesitation, but they did it.

Mr. Sutherland.—Mr. Chairman, pardon me. The witness is indulging the most absolute attitude of expressing mere opinions on things that he cannot have any knowledge about at all. Now, how far is it to go? We would not expect to introduce any testimony upon the direct case of this character, we would not think the Chair would receive it at all. It is the widest kind of generalization on subjects of which he has no knowledge whatever. We are only here to assist the Committee.

Mr. Stedman.—I can get through with this without asking any questions. In the Congressional Records of the United States the following appears, of which I am giving a summary:

“Votes against war credits in German Reichstag during the present war: war credit bill passed August 4, 1914, unanimous; December 2, 1914, one against; March 31, 1915, two against (30 Socialists left the Chamber before the vote); August 20, 1915, one against (29 Socialists left the Chamber before the vote); December 21, 1915, 20 against (22 Socialists left the Chamber before the vote); March 25, 1916, 18 against.”

The Chairman.—Well, now, the situation, judge, is this: There has crept into this case a suggestion that the Socialists of the United States were the only Socialists who opposed the war, and I suppose Mr. Stedman is clearing that situation up. Now, he is showing by this gentleman, for whatever this witness' testimony is worth—probably it is historical and may not be countenanced—but it occurred to me it was a good time to clear this matter up, and I cannot go into it with either side again unless there is some important rebuttal. Now, he is showing in some countries of Europe there was some strong Socialist element who opposed the war. Bring that down to the point as closely as you can.

The Witness.—My statement of the attitude was—when I said with reluctance—

Mr. Sutherland.—We would like to know, Mr. Chairman, whether the statements of the witness as to the attitude of these

parties in Europe, as to these matters of history, are to be taken as conclusive, or whether the Committee desires to have these statements examined by its counsel, and if we disagree and our assistants disagree with the conclusions of the witness, whether an opposite view should be presented by the witnesses that we produce.

The Chairman.— Well, I shall not go into it very much further.

Mr. Sutherland.— We are only here to assist the Committee and desire, of course, to follow your suggestions.

Mr. Stedman.— They will not find any contradictions.

The Chairman.— The Committee does not need very much more assistance on these lines.

Mr. Stedman.— Any contradictions they find, I would like to see it.

The Chairman.— I shall allow you to see it on both sides. I will dispose of this for what it is worth. The evidence of this man is not conclusive to me, but it is of historical importance.

Mr. Stedman.— Like the "World's Almanac" on the Democratic vote — it might miss it by one vote — but I doubt whether this witness has missed it by one.

Q. Now, continue with Denmark; no — Germany first.

The Chairman.— I do not care for the detail; he can give it in a general way.

A. I do not think it is necessary. The minority in Germany opposing war throughout the period of the war, the Rühle taking the lead and increasing numbers falling in line with them.

Q. Karl Liebknecht voted for the first appropriation, didn't he?

A. He did.

Q. And then made a speech shortly after apologizing and opposing from then on? A. He did.

Q. He also advised the soldiers to an open and determined physical revolt against the war? A. He did.

Q. For which he was sentenced to three years —

Mr. Sutherland.— Mr. Chairman, doesn't this illustrate splendidly the proposition that this witness knows nothing of this?

The Chairman.— We will proceed.

Mr. Sutherland.—How does he know what Liebknecht told the soldiers of Germany?

Mr. Stedman.—It has been published.

Assemblyman Cuvillier.—From the newspapers — that's all he knows about it.

The Witness.—I may say, if I may answer that, I have not only read the newspapers, I have read very numerous books and pamphlets published in France, England, Holland, Germany, Austria and Italy throughout the period of the war; have read printed speeches of men to whom I have referred, and when in Europe in the summer of 1914 and in the summer of 1916 have met and conversed with men and women who took part in all these affairs, and have conversed with some of them in the United States since that time. It is upon such sources that I rely.

Q. What languages do you read? A. I read German and French fairly well. I feel pretty well at home in reading those languages, as well as English, of course. I read Italian with some difficulty.

Q. Referring to Austria, what was the position of the Socialist Party there? A. It follows the same general lines as that of Germany; the minority, and a growing minority opposing the government and opposing it with increasing vigor.

Q. Then in Austria and Germany and in France the opposition was from the minority of the Socialists? A. Yes.

Q. And in the other countries — Russia? A. And in Belgium also.

Q. And in England? A. In England it might be a little difficult to say which was majority and which was minority.

Q. In the other countries the majority parties opposed the war? A. Yes. In Russia it was nearly unanimous.

Q. How about Japan? A. In Japan there is no Socialist representative in Parliament, and the conditions are such that it is hard to speak of a public Socialist movement. The Socialists of Japan opposed participation in the war, however, for whatever they counted for. The movement there is very small.

Q. The United States, can you state in a general way the position of the party upon the war from the time it commenced—a summary? A. You mean from the time the war commenced in Europe?

Q. Yes. The party in the United States from the beginning of the war in Europe advocated neutrality on the part of the United States; opposed participation by the United States in the European war upon one side or the other. It further took various opportunities to urge the Socialist parties of the warring countries of Europe, and through them the working classes of the warring countries of Europe, to come together, if I may express it so, over the heads of their governments and put an end to the war. It explained the war, took every opportunity it could to explain the economic causes out of which this war, as other modern wars, had grown, and the danger that if such economic causes continued, other wars would result in the future. That I think covers the main lines of its activity.

Q. Do you know where the term "no annexation or indemnities" originated?

Mr. Sutherland.—Now, Mr. Chairman, that is going some.

Mr. Stedman.—I withdraw the question. I wish to read now from the Socialist party proceedings one or two of the pronouncements of the party upon the war.

Mr. Sutherland.—Mr. Chairman, I only call the attention of the Chairman to the fact that it is not part of any cross-examination.

Mr. Stedman.—I agree with you, counsel.

Mr. Sutherland.—We are here to assist the Committee, that is all.

The Chairman.—Mr. Stedman does not press it. Anything further from this witness?

Q. Will you define mass action? A. To distinguish mass action from individualist action—mass action as the word is used by Socialists may take a variety of forms. One of them is participation in the work of a political party, carrying on of political campaigns. Another of them is the activities of labor unions. The strike is a mass action. The boycott is a mass action. The holding of mass meetings, public demonstrations, parades and so forth, to give public expression to the views or feelings of masses of people is a type of mass action. The gathering of signatures to petitions, if it is carried on on a large scale, is another type of mass action. We distinguish it from individual action and conspirative action.

By Mr. Stedman:

Q. Will you explain or elucidate the meaning of the phrase in the war program, "Opposition by all means within your power"?

Mr. Sutherland.—I submit that is an expression which any school boy can understand. Its meaning is perfectly apparent, and there is no need of asking Mr. Lee or any other witness what that means.

The Chairman.—You may answer.

The Witness.—I think the phrase is a very familiar one. In the first place, there are two parts of it—"opposition." The Socialist party opposed participation in the war and advocated the speediest possible ending of the war so far as the United States was concerned. Its opposition was an open public opposition to the policy of participation in the war. I suppose you refer also to the use of the words "by all means within our power." I believe, as Judge Sutherland has said, the phrase, "by all means within our power," and so forth, is a very familiar phrase which we use every day.

The Chairman.—You and the judge seem to agree.

Mr. Sutherland.—On that point.

The Witness.—I will do all I can to help you; I will do all in my power in a legal manner to help you.

By Mr. Stedman:

Q. Was there any statement made by any one in the convention proposing any unlawful or violent means of resisting the prosecution of the war?

Mr. Sutherland.—Read the question again.

The Chairman.—Let's hear that question.

(The question was thereupon read by the stenographer.)

Mr. Sutherland.—Now, that implies—that gives the witness the opportunity to put his own construction upon somebody's words that are not quoted here. We might think they were unlawful. The witness might think they were perfectly proper. Now, if he repeats what some delegate said on the floor of the convention, that is one thing; but if he generalizes and says

nobody suggested anything unlawful, that is a different question. I suggest that the question is improper.

The Chairman.— The platform of the Socialist Party, which was adopted, voiced its opposition to the war.

Mr. Stedman.— Yes, sir, unyielding opposition to the war.

The Chairman.— The various other political parties have had similar provisions in their platform?

Mr. Stedman.— They have.

The Chairman.— Now, you want to go into the question of what these men said on the floor of that convention, which is an entirely too broad a field.

Mr. Stedman.— That would not quite express it.

The Chairman.— You are going into a round of difficulties, I say.

Mr. Stedman.— Supposing prior to my making the statement you put a witness on the stand and say, "Were you at the assembly hall on the 30th of January at 11 o'clock; at that time was there any one there who suggested a dog fight?" It would be proper to put a person on the stand and say, "Did any one suggest dog fight at that time and place?" There you would get a negative and it would be competent, because you would not necessarily require the person to testify to every word said here for seven or eight hours in order to make it. In other words, it is a violation of the general rule of conclusion.

Mr. Stevenson.— Mr. Chairman —

Mr. Stedman.— I am making the offer to show that so far as any expression is concerned, there is no indication in the convention that the persons who are supporting this contemplated anything excepting a lawful method of procedure.

Mr. Sutherland.— We object to the witness stating what some one else contemplated.

The Chairman.— There is nothing in the case which shows that they did. I will dispose of it right along.

Mr. Stevenson.— I simply want to submit that the meaning of the war proclamation and program of the Socialist Party is best shown by what the party did, and not what anybody said.

The Chairman.— Well, I have decided that question.

Mr. Stedman.— We have agreed on the facts I am attempting to prove —

The Chairman.— What else do you know about it?

By Mr. Stedman:

Q. Referring to the Labor Year Book, will you state the general scope of that book? A. It is a rather voluminous reference book, dealing with subjects connected with the Socialist movement, the trade union movement, the co-operative movement with the working class movement generally in this country and throughout the world, and with matters of social legislation and other matters that would naturally be of interest to people in the working-class movement.

Q. It contains the platform of the various political parties? A. It contains various political platforms, various documents or summaries of them; it is a small encyclopedia.

Q. Where is it disposed of, and where is it circulated?

The Chairman.— Do you mean the Year Book?

Mr. Stedman.— Yes, from which the Manifesto on the wall was read.

The Chairman.— All right.

A. There is a sale to the general public. It is sold pretty largely to secretaries and other officers and trade unions throughout the country; to active Socialists throughout the country; to departments of Economics and Sociology in politics, in universities and colleges throughout the country; to business houses and it is interesting to us that many departments in corporations which deal with labor conditions have apparently found the Year Book a valuable source of information.

Mr. Stedman.— I wish to call attention to just a subject or two under each of its generalizations: Part 1, Labor and War Deals with the Socialist Party. Labor and the British government. English Women in the War. Part 2 — that is only a portion of the subjects treated there. Part 2, The Labor Movement in the United States, in which I judge a hundred different subjects are explained. Of Trade Unionism. American Federation of Labor Principles. Railroad Labor Dispute. Railroad

Accident. Industrial Unionism. Brief History of the National Association of Machinists.

Mr. Stevenson.— May I interrupt just a moment, Mr. Stedman? I submit that the character and the circulation of the American Labor Year Book has not been called in question, and this is not a matter in any way relative to this proceeding.

The Chairman.— You may proceed. Let him proceed.

Mr. Stedman.— Part 3: Labor Legislature. Workmen's Compensation, and other subjects. Part 4: Social and Economic Conditions. High Cost of Living. Manufacturers in the United States, and other subjects. Part 5: International Socialist Labor and Cooperative Movements. Austria, Bulgaria, Poland, China and Mexico. Part 6: President Campaign. Socialist Party. Socialists in Chicago. Socialist Labor Party. Society Contributions.

Now, those are some of the portions of the general subjects. Counsel, Mr. Stevenson, is much more inclined to limit the evidence than other of his associates were a day or two ago.

The Chairman.— I want you to have every opportunity. I would like to ask this gentleman on the stand now a question. He seems to be —

By the Chairman:

Q. What do you mean by Social Revolution? A. I mean such a change, such a thorough change in the economic system of the country carrying with it presumably changes in its political forms, and in its social life generally, as would alter the actual structure of society. If I may illustrate: A certain society may have its foundation, as one society of a good number of years ago did, 70 years ago, in a system of chattel slavery. The disappearance of that system, the change of this chattel slavery — it may be into wage workers or something else, constitutes a social revolution. I can cite various other instances out of history.

The Chairman.— I get your point.

By Mr. Stedman:

Q. And the change from handwork to machine work?

A. What was formerly known as the industrial revolution.

Q. And let me ask you; production for profit is the basic motive of present production, is it not? A. It is.

Q. And the Socialist proposes production for use? A. It does.

Q. That is the prime object, is it, to produce, to conserve the wants and necessities and the pleasure of the people? A. To do away with profit as the controlling motive in production, and substitute production directed for the use of the satisfaction of human wants.

The Chairman.—Is that all of this witness?

Mr. Stedman.—Just one more question that I understand he has not completed.

Assemblyman Everett.—If you were elected Governor of the State of New York on the Socialist ticket would you put into force in your Proclamation the principles as advocated by you and your associates of the Socialist Party?

The Witness.—Why, I do not apprehend that the Governor has any power.

By Assemblyman Everett:

Q. I said, in your proclamation to the Legislature? A. You mean would I recommend to the Legislature? Oh, assuredly.

Assemblyman Cuvillier.—Ah, ha; that settles it. (Laughter.)

By Assemblyman Everett:

Q. You would have to stand by your platform? A. I would have not only to stand by my platform, I would desire it.

Q. So that we now have an opportunity, so far as you are concerned, to choose between our form of government and the one that you advocate? A. It is not the form of government, sir, I wish to avoid—that there is a form of government—the form of government is not the point in question, as I tried to make clear in my answer to the question.

Q. You would adopt the principle? A. If I were elected Governor, or to any other position, I would, so far as that position enabled me, try to carry those principles into effect.

Assemblyman Everett.—That enables us to sit as a Committee and decide which form of government we advocate.

Mr. Stedman.—We will proceed and perhaps take it up a little differently.

By Mr. Stedman:

Q. If you were elected Governor, we will suppose that you had a majority vote? A. Perhaps.

Q. And the Legislature might be perhaps committed to the same party? A. I suppose every Governor would hope to have a Legislature of the same party.

Assemblyman Bloch.— Which is not the fact always.

The Witness.— Not always the fact.

By Mr. Stedman:

Q. And the Legislature would carry out the program which the majority of the people believed in at that time in socializing industry? A. Yes, sir.

Q. In socializing water power; in socializing street car lines; in socializing factories, where it could be done? A. Yes, and all other industries.

Assemblyman Cuvillier.— And not have any National Guard, no army, no navy, or appropriations for it.

Mr. Stedman.— I think if the Socialists suggested that we should have a complete army of every man over twenty-one, my friend here would vote against it.

Assemblyman Cuvillier.— What's that?

The Chairman.— Gentlemen, we cannot have this indiscriminate discussion. Assuming all you said was true and you did it by the votes of the majority, that would be the government we would have to live under. Now, proceed.

By Mr. Stedman:

Q. You were asked a question which was not answered. I will read both of them: "Q. Then the man that was on the outskirts that just read the fact that at the same time and in the same breath when you declared yourselves against the war and its prosecution, when you urged your people on the outskirts to do all in their minds to obstruct the war — A. No, sir.

"Q. — therefore, when he reads at the same time that you struck out the prohibition against the use of sabotage, wouldn't he naturally say, wouldn't it naturally occur to a man of ordinary mind, 'Well, there is my opportunity to do what I can?'"

You did not answer that question which was directed to you

by Judge Sutherland. A. Why, in the first place — may I have that to refer to the whole record? In the first place, there appears in the question these words: “When you urged your people on the outskirts,” which I suppose means outside of the party organization, “to do all in their minds” — probably all in their power — “to obstruct the war” — of course, I would have to answer there that we at no time called upon anybody to do anything to obstruct the war.

Mr. Sutherland.— I claim he is now giving an interpretation of the words of the platform, and I claim that it is an obviously incorrect interpretation. I say the words explain themselves. The meaning is very clear from the language.

The Witness.— I was asked.

By Mr. Stedman:

Q. That was a question asked you by the Judge. A. I was asked, and that was my answer, that at no time did we urge anybody to obstruct the war. “Therefore, when he reads that at the same time you struck out the prohibition against the use of sabotage, wouldn’t it naturally occur to a man of ordinary mind, ‘Well, there is my opportunity to do what I can.’” In the first place, I may say that I suppose very few people anyhow paid any attention to the dropping of that clause out of the constitution. I do not believe it received any particular publicity. There was no occasion for it to do so; but if you ask me, as you do, what would naturally be the effect,— what I might expect to be an effect upon the minds of the people in the outskirts, as you put it, workingmen more or less sympathetic with the Socialist party, but outside of the organization, people whom we reach, what would be the effect on their minds, I would say if we had asked them to obstruct the war, then I suppose the conclusion would be what you suggest, but as we did not urge them to obstruct the war, as both in the proclamation itself and in the newspaper articles and speeches — I made some of these speeches myself upon the subject — we made it very clear that we were not urging anybody to obstruct the war, to obstruct the making of munitions or anything else of that kind; but that we were attempting to influence the public mind to bring about an opposition to the participation and to the continued participation of the United States in the war. Then my answer to that question is: No, sir. The effect upon the minds of these people would not have been what you suggested.

By Mr. Stedman.

Q. Is it the usual practice to revise the Constitution at each convention? A. It is.

Q. And in revising the Constitution they draw it to meet the present situation, eliminating things that were had in the past?

A. Yes, sir; and adding things in it to take care of present conditions.

Assemblyman Harrington.— You say, Mr. Lee, that you did not ask your members to obstruct the war, but you did ask them to use their opposition against the war.

The Witness.— To oppose the policy of participation and continued participation in the war.

Assemblyman Harrington.— I do not see the difference.

The Witness.— The difference is this, Assemblyman: I may oppose a prohibition before it is enacted. After it is enacted I may oppose it and favor its repeal but that by no means is the same thing as proceeding illegally to manufacture whiskey or to sell whiskey in violation of the prohibition law, or try to induce other people to do it, or obstruct officers of the law in their search for liquor. There is a very great distinction of opposing and obstructing a measure, I take it — that is, you would recognize it.

By Mr. Stedman:

Q. You would distinguish between a person who believed in free trade and a smuggler? A. Yes, I think it is quite lawful to be a free trader and I understand it is unlawful to be a smuggler.

Q. And can you write in a few words—well, state the explanation of the war from a Socialist standpoint, the fundamental motive.

Mr. Sutherland.— Mr. Chairman, is it in the minds of the Committee to receive it?

The Chairman.— I don't think that is necessary.

Mr. Stedman.— I will withdraw that and leave that for either argument or defense.

Assemblyman Harrington.— As an ex-service man I can give a definition of the war.

The Chairman.— Is there anything more that is important here?

Assemblyman Cuvillier.— Now, Mr. Chairman, as a representative of the minority party on this Committee I think it is due us while this witness is on the stand to find out two questions and with your permission I am going to ask them.

In March, 1917, the revolutionary party in Russia was composed of the Czarist government? A. That is correct, February, March, 1917.

Q. The provisional government then was composed of all Russians who were not Socialists except Kerensky who was the only Socialist in that cabinet, that is correct? A. For a short time.

Q. Yes. A. It underwent many changes, almost daily changes.

Q. Kerensky continued the prosecution of the war with the allies, didn't he? A. Not very effectively.

Q. I say he did, that was his policy? A. It was his policy to attempt it.

Q. Wait one moment. The United States government on his faith and policy loaned the provisional government of Russia two billions of dollars, you know that, do you? A. I don't know that.

Q. They loaned him some money, didn't they? A. I believe so.

Q. Yes. Trotzky and Lenine who represent the Bolsheviks Socialist Party in Russia on what you call the Octobrist, on October 5, 1917, overthrew Kerensky and formed the Trotzky and Lenine government, is that correct? A. Pardon me.

Q. Wait one moment. A. The Octobrists have nothing to do with this.

Q. Wait one moment. A. The Octobrists have nothing to do with this.

The Chairman.— I am going to let this continue for five minutes. As Chairman of the Committee I owe the members some latitude here.

By Assemblyman Cuvillier:

Q. On October 17th the Kerensky government was overthrown and Kerensky and Trotzky made a peace treaty with Germany, did they not? A. Somewhat later a treaty was made.

Q. And since that time Trotzky and Lenine stated to the United States Government that they will never pay the United States Government \$2,000,000,000 they owe. A. I understand, on the contrary, to the best of my information, that they have stated their willingness to pay the old debts. My answer to your question, then, is no.

The Chairman.—Proceed. Is there anything further. Anything further, Mr. Stedman?

Mr. Conboy.—There is a question or two I want to ask.

By Mr. Stedman:

Q. Have you ever heard of Bakhmetieff? A. Bakhmetieff?

Q. Yes. A. The representative—the Ambassador—who represented the Russian government after the revolution of February-March, 1917.

Q. What has his position been? A. His official position, you mean?

Q. Whom was he sent here by, do you know? A. He represented here the government under the headship of Prince Lvoff, which succeeded the Czar's government.

Mr. Stedman.—That is all.

The Chairman.—That is all. Have you some question, Mr. Conboy?

Mr. Conboy.—Yes, please.

By Mr. Conboy:

Q. In this American Labor Year book, 1917 and 1918, there occurs this language, Mr. Lee—

Mr. Block—What page, please?

Mr. Conboy.—At the bottom of page 52: "In harmony with these principles the Socialist Party emphatically rejects the proposal that in time of war the workers should suspend their struggle for better conditions." By that you understand that even in time of war, whatever program might have been outlined is to be carried out to whatever extent is permissible or available at that time, do you not? A. Whatever is permissible or available at that time, I think so.

Q. "On the contrary, the acute situation created by war calls for an even more vigorous prosecution of the class struggle." By that you understand that conditions arise in war, growing out of the acute situation, which require an even more vigorous prosecution of class struggle, quite irrespective of the national danger; do you not so understand, Mr. Lee? A. That the critical conditions which war creates involve even greater evils, and dangers to the

working class, and even greater opportunities for capitalist profiteering than take place in times of peace, which must be combated.

Q. Quite irrespective of the danger? A. I do not think that is in the sentence.

Q. "And we recommend to the workers and pledge ourselves to the following course of action: 2. Unyielding opposition to all proposed legislation for military or industrial conscription." That is a part of the program? A. Yes, we have always been opposed to such legislation.

Q. "Should such conscription be forced upon the people, we pledge ourselves to continuous efforts"—now, by "forced upon the people" you understand should it be adopted by the National Legislature representing the people of the United States, do you not? A. That is one way in which it might be done.

Q. It could not be forced upon the people in any other way except Congressional legislation? A. It could.

Q. It could be forced upon them in some other way? A. Yes.

Q. That is, national legislation putting conscription upon the statute books was one of the things that was contemplated within the language used, "conscription forced upon the people?" A. That is rather complicated.

The Chairman.—Read the question.

(Last question read by reporter.)

A. Now, if you will allow me to hear the whole sentence.

Q. I wish you to construe this part of it. A. I cannot without the whole sentence.

Q. If you will permit me to read, and if you cannot construe the words, we will pass on. I will read the words— A. The sentence.

Q. "Should such conscription be forced upon the people"—I ask you if that language did not contemplate congressional action putting conscription upon the statute books? A. It may have as one proposition.

Q. That is one way of forcing it upon the people; is not that true? A. It is possible. If you will permit me—

Q. You have answered my question, Mr. Lee, unless there is something in your own mind. Of course, I would not for a moment be discourteous.

The Chairman.—Ask the question and let us get along with it.

By Mr. Conboy:

Q. —“ we pledge ourselves to continuous efforts for the repeal of such laws? ” A. Yes, sir.

Q. —“ for the repeal of such laws and to the support of all mass movements in opposition to conscription? ” A. Yes, sir.

Q. Well, what mass movement in opposition to conscription, distinguished from the repeal of the law, was contemplated after the law was placed upon the statute? A. I indicated, a little while ago, what we mean by “ mass action. ” It is indicated in another part of that war program. The repeal, of course, could not be a mass action in itself, the repeal of a law is done by Congress or the Legislature, or whatever body passes the law. That is not a mass action. That is an action of the delegate body. Mass action, as I indicated a while ago, may include —

The Chairman.— I do not want to spend any more time on it if you have it.

The Witness.— Simply refer back to my answer.

The Chairman.— I will not take any further cross-examination.

Mr. Conboy.— I will ask you, if the Chairman will permit —

The Chairman.— The Chair is going to end this pretty suddenly.

By Mr. Conboy:

Q. I will ask you what mass movement in opposition to conscription, other than the repeal of the laws — which you say are not mass movement — are contemplated, or were contemplated when that platform was adopted? A. I will make it as brief as I can — opposition to conscription means opposition to the enactment of laws or opposition to the continuance of those laws, mass action to bring about the repeal of such laws, as I indicated in answer to a question some time ago.

By Mr. Conboy:

Let me read the sentence to you in full. “ Should such conscription by force be forced upon the people, we pledge ourselves to continuous effort for the repeal of such laws and to the support of all mass movements in opposition to conscription? ” A. Exactly.

Q. Now, I ask you if that latter language does not contemplate mass movements in opposition to the administration of the conscription law? A. If we had meant that we would have said it.

Q. Didn't you say it? A. We did not say it. What we say is something distinct from that, if we had meant that we would have said it.

Q. Having spoken of the law as being adopted pledging yourselves to work for the repeal of it, then pledging yourselves also to support all mass movements in opposition to it, didn't you mean the opposition to the administration and the enforcement of it? A. Haven't I answered it?

The Chairman.—No.

The Witness.—That is not what we meant, and I am sure if we had meant that we would have said it in unmistakable terms. That is not—

Mr. Conboy.—We leave that to the Committee.

But it is as fair to the witness to ask if he had any explanations to make in regard to that statement made.

The Witness.—Perfectly fair, and I think I have answered the question.

Mr. Conboy.—We won't take that up now, because the Chair won't permit me to discuss this matter with you.

The Chairman.—No, no.

By Mr. Conboy:

Q. Now, Mr. Lee, I understand that you have attended international gatherings? A. Yes.

Q. And I think in answer to one question you used such language as this: At a certain time we had a certain number of seats in the Duma, or some other foreign legislative body? A. It is possible I used that expression.

Q. When you spoke of "we having a certain number of seats," whom did you mean? A. Socialists.

Q. Socialists. The Socialists were the socialists who had a certain number of seats in the Duma, a Russian body, that had a certain number of seats in the Austrian House of Legislation? A. Yes.

Q. "We, the Socialists, had a certain number of representatives in other national parliamentary and legislation-making organizations or bodies?" A. Yes, yes.

Q. And the Internationale, which convened at these various places in Europe, to which you have reference, laid down a program for all the socialists of the world, didn't they? A. Not quite.

Q. Well, largely so. A. The declarations, the resolutions of the Internationale, were considered as having a very high moral authority, as being intended for the guidance of the Socialist party in the various countries. They were not at any time considered as mandatory, because the economic and political and other conditions in various countries differed so widely that a policy which would be practicable or would be advisable or would be justifiable in one country might not be in another country. That has always been understood.

Q. That is, matter of expediency might determine whether a part of the program was to be enforced in the United States which might be in due order enforced in Russia? A. That is not quite a fair re-statement of my answer.

Q. Well, it may not be; we will leave the answer as it stands. A. Yes, please.

Q. There was, you say, and it has been indicated a number of times upon the record, opposition, thorough-going, unwavering, un-deviating opposition to the war by the Socialist party everywhere? A. Yes.

Q. Yes. And of course that attitude with respect to the war followed the program adopted by the Internationale? I think that Mr. Stedman directed your attention to that, is that true? A. Yes, yes.

Q. That opposition would, of course, be the strongest in those countries where the Socialist party was the strongest, wasn't it? A. If the Socialist parties in those countries acted in accordance with that general conception.

Q. Yes; so that the countries where the Socialist party had the largest share in the determination of national policy, would find itself committed to that extent to the program of the Socialist party with regard to preparation of war and for the continuance of war wouldn't it? A. It would in so far as it was under the Socialist influence.

Q. It would in so far as it was under the Socialist influence?
 A. Yes. It would find itself committed to such a policy as would prevent the outbreak of war.

Q. That would very largely, would it not, Mr. Lee, place countries where there was a very large influence of the Socialist party, very largely at the mercy of those countries that did not have such a large Socialist representation? A. Oh, I see your point.

Q. Yes; it is quite obvious? A. That is just the reason, sir, for the necessity of an International rather than a purely national action upon such questions.

Q. Yes, but the effect of it, so far as the individual country is concerned, is determined by the extent to which the Socialist movement has progressed in any given country? A. And by the particular lines of action which it may follow.

Q. So it may follow — A. Which may be influenced by the consideration, among other things, of the point you have mentioned.

Q. Now, you told us about the attitude of socialists throughout the various countries during the war with regard to the prosecution of the war. I now offer in evidence certified copy of bill with vote in this Assembly on Senate Bill No. 27, dated January 9, 1918, an Act to make available for the New York Guard certain moneys appropriated for the National Guard by Chapter 181 of the Laws of 1917, showing the only votes in opposition to be those of the Socialist members of the Assembly?

Assemblyman Cuvillier.— What are their names?

Mr. Stedman.— May I take it?

Mr. Conboy.— Mr. Claessens, Mr. Fiegenbaum, Mr. Garfinkle, Mr. Gitlow, Mr. Karlin, Mr. Rosenberg, Mr. Orr, Mr. Waldman and Mr. Whitehorn.

Mr. Sutherland.— That is the session of 1918?

Mr. Conboy.— The session of January, 1918. It was the act which was passed to make available for the New York Guard certain moneys appropriated for the National Guard by Chapter 181 of the Laws of 1917.

The Chairman.— Mark it received.

(The paper was received in evidence and marked Exhibit 57.)

Mr. Conboy.— I also offer in evidence —

Mr. Stedman.— Just a minute; let me read it.

The Chairman.— The Committee will take a recess until 2 o'clock.

Whereupon, at 12.50 P. M., the Committee adjourned for recess.

AFTER RECESS.— 2.00 P. M.

The Chairman.— Proceed.

Mr. Conboy.— That bill that was introduced this morning, has it been marked in evidence yet?

Mr. Wolff.— Yes, as Exhibit No. 57.

Mr. Stedman.— I want to object to the bill on the ground that it is not an appropriation providing for the establishment or maintenance of the militia or naval forces of the State of New York; on the contrary it seemingly provides for the compensation for the difference between national pay, provided for by the Government, and whatever may be paid which is indefinite in the bill, by the State.

The Chairman.— I understand that; but I will overrule your objection and take it for what it is worth.

Mr. Stedman.— Exception.

The Chairman.— Proceed.

Mr. Conboy.— I next offer in evidence the certificate together with the roll call of the Journal Clerk of the Assembly on the passage of the Act of the Assembly Bill No. 1320, entitled, "An Act Making Appropriations for the Support of the Government." I think this is a general appropriation act for January which was adopted in January. The date appears as January 29, 1920,— March 26th was the date it was adopted by the Assembly, and that Act makes appropriations, I suppose it will be conceded, instead of spreading the entire act upon the records of this committee, that act makes appropriations for the National Guard, among other constitution bodies, for the State of New York.

Mr. Stedman.— And the total appropriation is something like \$96,000,000 for all divers expenditures which may be carried out by the Sate, and investigating committees, and otherwise.

Mr. Conboy.— I will accept your statement; do you accept mine and that it covers appropriations for the National Guard?

Mr. Stedman.— Yes, and I object on the ground that it is voted against by any person. That does not determine the fact that any particular appropriation was in their mind, or voted upon as long as expressed in the record.

The Chairman.— He might object to the whole of it.

Mr. Conboy.— The votes that are recorded in the negative are those of Mr. Claessens and Mr. Solomon, two of these Assemblymen, the only votes recorded in the negative.

The Chairman.— All right. Proceed. I do not want that bill printed into the record.

Mr. Conboy.— I only offer the bill. I do not believe it is necessary to put it in, Mr. Chairman, in view of the admissions by Mr. Stedman.

Mr. Waldman.— What year was that, Mr. Conboy?

Mr. Conboy.— March 26, 1919.

(The bill was received and marked Exhibit No. 58 in evidence of this date.)

Mr. Conboy.— I now offer in evidence Assembly Bill No. 1286.

Mr. Stedman.— May it appear you cannot disassociate one item from the other when you are voting on a bill?

Mr. Conboy.— I take it that is true.

The Chairman.— Yes, have it so appear.

Mr. Conboy.— Assembly Bill No. 1286, adopted March 26, 1918, with the certificate of the Journal Clerk of the Assembly, showing the vote thereon. The bill itself being entitled, "An Act to Amend the Educational Law in relation to qualifications of Teachers." It was apparently designed, by virtue of its terms, to exclude from among the teaching staff of the department of this State alien enemies.

Mr. Waldman.— What number is that ?

Mr. Conboy.— Bill No. 1286.

Mr. Karlin.— Is that the introductory number or the printed number ?

Mr. Conboy.— That is the printed number of the bill — no, the introductory number is 766. On that bill the votes in the negative — the only votes in the negative, are Mr. Claessens, Mr. Feigenbaum, Mr. Garfinkle, Mr. Gitlow, Mr. Karlin, Mr. Orr, Mr. Rosenberg, Mr. Shiplacoff, Mr. Waldman and Mr. Whitehorn, whom I assume it will be conceded were the Socialists' representatives in the Assembly at the time.

Mr. Stedman.— That was a bill prohibiting any person teaching who was not a citizen.

The Chairman.— That is true.

Mr. Conboy.— Except, if you please, Mr. Chairman, my recollection of the context of the bill is that it permitted to teach those aliens who were of a friendly power, and who thereafter declared their intention of becoming citizens of the United States, and only those were excluded who were aliens.

The Chairman.— I will cut out that discussion. The Committee is quite competent to read the bill.

(The bill was received and marked Exhibit 59 in evidence of this date.)

Mr. Conboy.— I also offer in the same connection Senate Bill 718, introductory number 654, adopted March 24, 1919, together with the certificate of the Journal Clerk of the Assembly, showing the vote upon this bill. This bill is the bill that was of similar character to the one that has last been introduced in evidence, and the votes in the negative on the bill are those of Mr. Claessens and Mr. Solomon, Socialist representatives in the Legislature at the time.

(The bill was received and marked Exhibit No. 60 in evidence of this date.)

Mr. Stedman.— But this bill reflects what is commonly termed the patriotic qualifications, that is, requirements of citizenship.

Mr. Conboy.— And that was the bill, was it not, Mr. Stedman, which permitted those who were Nationalists of friendly powers during the war, and who had declared their intention to become citizens, to be appointed teachers by the Department of Education?

Mr. Stedman.— No, I do not so understand it.

Mr. Conboy.— I offer in evidence Assembly Bill No. 1164, introductory No. 1045, entitled "An act to amend the Education Law in relation to physical training and the use of armories therefor," adopted March 5, 1919, with the certificate of the Journal Clerk of the Assembly, showing the following votes in the negative on that: Mr. Claessens and Mr. Solomon.

Mr. Stedman.— That bill provided for military training of school children?

(Bill referred to received and marked Exhibit No. 61 of this date.)

Mr. Conboy.— When I say "votes in the negative" I mean the only votes in the negative.

The Chairman.— I see.

Mr. Conboy.— I next offer in evidence Assembly Bill No. 656, introductory No. 620, entitled "An Act to Provide for the Publication of the Law Relating to the Desecration of the Flag," together with the certificate of the Journal Clerk of the Assembly showing that the only votes in the negative on that measure were those of Mr. Claessens and Mr. Solomon.

Mr. Stedman.— That bill provides for 10,000 copies of the act to reach 11,000,000 people. You may recall they opposed it on the ground that 10,000 copies was insufficient.

Mr. Conboy.— They did not want even 10,000 to be sent out.

(Bill referred to received in evidence and marked Exhibit No. 62.)

The Chairman.— Go ahead.

Mr. Conboy.— I offer in evidence Assembly bill No. 278, introductory No. 274, entitled "An act to provide for paying members of the national guard, who served without the State in response to the call of the president of June nineteenth, nineteen

hundred and sixteen, the compensation for services in the state less the amount allowed by the federal government, making an appropriation and establishing a special fund therefor." This bill was passed April 16, 1919, and I also offer in evidence with it the certificate of the Journal Clerk of the Assembly, showing the vote upon the bill, from which it appears that the only negative votes recorded against it were those of Mr. Claessens and Mr. Solomon, the two Socialist representatives.

(Bill referred to received in evidence and marked Exhibit No. 63.)

Mr. Conboy.— I now offer in evidence the general Appropriation Act for the support of the government of 1918, No. 1725, Assembly bill, introductory number 1299, and the certificate of the clerk showing that the only votes in the negative, in opposition to that measure —

Mr. Waldman.— Who is that by?

Mr. Conboy.— Who introduced it?

Mr. Waldman.— Yes.

Mr. Conboy.— I cannot tell you, but the Assembly bill is No. 1725, and the introductory number is 1299.

The Chairman.— Well, Mr. Machold introduced all those bills.

Mr. Stedman.— That was the budget?

The Chairman.— Yes, that was the 1918 general appropriation law.

Mr. Conboy.— And the only votes recorded against that were Mr. Claessens, Mr. Feigenbaum, Mr. Garfinkel, Mr. Gitlow, Mr. Karlin, Mr. Orr, Mr. Rosenberg, Mr. Shiplacoff, Mr. Waldman and Mr. Whitehorn, constituting the Socialist representatives of the Assembly at that time.

(Bill referred to received in evidence and marked Exhibit No. 64.)

The Chairman.— Proceed.

Mr. Conboy.— I now offer in evidence Senate bill No. 1488, introductory No. 422, relating to the military training of boys.

Mr. Stedman.— What is the number again?

Mr. Conboy.— It is Senate bill No. 1488, introductory No. 894. It was introduced by Mr. Slater, and I offer in evidence the certificate of the Journal Clerk of the Assembly showing the vote upon that measure and establishing the fact that the only votes in the negative against the bill were those of Mr. Claessens, Mr. Feigenbaum, Mr. Garfinkel, Mr. Gitlow, Mr. Karlin, Mr. Orr, Mr. Rosenberg, Mr. Shiplacoff, Mr. Waldman and Mr. Whitehorn, constituting the Socialist representation in the Assembly at that time.

(Bill referred to received in evidence and marked Exhibit No. 65 of this date.)

Mr. Stedman.— Note my objection.

The Chairman.— Proceed. What next here?

Mr. Conboy.— I next offer in evidence Assembly bill 1630, introductory 121, entitled "An act to provide for requisitioning the labor of able-bodied male persons between the ages of 18 and 60 years, who are not engaged in a lawful and useful business, occupation, trade or profession," together with the certificate of the Journal Clerk of the Assembly, showing the only votes cast in the negative on that measure were those of Mr. Claessens, Mr. Feigenbaum, Mr. Garfinkel, Mr. Gitlow, Mr. Karlin, Mr. McLoughlin, Mr. Orr, Mr. Rosenberg, Mr. Shiplacoff and Mr. Whitehorn, being the representation of the Socialist Party in the Legislature, with the exception of Mr. Waldman, who didn't either vote or is not recorded.

Mr. Waldman.— I did vote against it.

Mr. Conboy.— Being the entire Socialist representation in the Legislature — and Mr. McLoughlin.

Mr. Block.— Mr. McLoughlin not being one of the Socialists.

Mr. Conboy.— I said the entire Socialist representation, Mr. McLoughlin not being a Socialist.

(The paper was received and marked Exhibit 65 of this date.)

Mr. Conboy.— I next offer in evidence Assembly bill 756, introductory 682, passed April 4, 1918, entitled "An act to provide for paying members of the National Guard, who served without the State in response to the call of the President of June

19th, 1916, the compensation for services in the State less the amount allowed by the Federal government, and making an appropriation therefor," and the certificate of the Journal Clerk of the Assembly, showing the only votes cast in the negative at the time of the adoption of that measure were those of Mr. Claessens, Mr. Feigenbaum, Mr. Garfinkel, Mr. Gitlow, Mr. Karlin, Mr. Orr, Mr. Rosenberg, Mr. Shiplacoff, Mr. Waldman and Mr. Whitehorn, constituting the entire Socialist representation in the Assembly.

Mr. Stedman.—What bill was that last one? Oh, I recall it. That is objected to. I move to strike out all this evidence on the ground that we are not charged in the proceedings here with improperly voting upon any bill presented in the House. Also for the further reason that the voting for an appropriation may be voted for in an affirmative or the negative, as the motion and circumstances may appeal to the judgment of the member of the House, and that there is no method of determining in the case of a blanket appropriation or budget or in the instance of a single bill, that the individual is voting contrary to the appropriation in violation of the Constitution excepting under circumstances which would show that they are voting for it irrespective of the motion and conditions. In other words, that it is an unconditional negative.

The Chairman.—I will overrule the objection. But I don't understand, Mr. Stedman, the votes on the Appropriation bill, he might have objected to the whole vote. We appreciate that and understand it.

Mr. Stedman.—But the other bills are not for military appropriations.

The Chairman.—I understand it. There is a difference of opinion on those.

By Mr. Conboy:

Q. Now, Mr. Lee, there were certain members of the Socialist Party in the United States who refused to support the anti-militarist or anti-war program of the Socialist Party in this country, were there not? **A.** Yes, sir.

(The bill above referred to was received and marked Exhibit No. 66 in evidence of this date.)

Q. And who were the conspicuous Socialists in that opposition?
 A. Mr. John Spargo was pretty conspicuous; Mr. Charles Edward Russell; A. M. Simons. To a certain extent Allen Benson, I think his position was not quite the same as that of the other three I mentioned, and others.

Q. Those are the four whose names readily occur to your mind?
 A. Readily occur in my mind.

Q. In connection with the question that I have put to you?
 A. Yes.

Q. Now, what became of those gentlemen so far as the Socialist Party was concerned, that is, with respect to any action taken by the Socialist Party with regard to them? A. I don't know that any action was taken by the Socialist Party with regard to them. They withdrew from the Socialist Party.

Q. They withdrew from the Socialist Party themselves? A. Yes, sir.

Q. Were there any other instances so far as you know of withdrawal in other countries from the Socialist Party by those men who took a stand in opposition to the platform of the Socialist Party with regard to the war? A. Yes.

Q. And what did those gentlemen do? A. Some of the Socialist members, members of the Socialist Party in Italy withdrew from the party, including a small part of the Socialist representatives — a small number of the Socialist representatives in Parliament.

Q. So that is it not a fair statement to make, Mr. Lee, that in connection with the prosecution of the war, these men to whom you have referred found that their position in support of their country was in antagonism to any sentiment in favor of the doctrines of the Socialist Party itself? A. No, I don't think that statement would be altogether fair.

Q. It wouldn't be altogether fair? A. No. I think you have read a good deal into that statement that doesn't belong in it.

Q. At any rate, they themselves were apparently of that conviction? A. No, I say I do not accept that as a correct statement.

Q. You don't think that is a justifiable inference from the attitude that they took with relation to their attitude to their government and with relation to their connection with the Socialist Party? A. No, I cannot accept it.

Q. You don't think that is a fair inference to draw, that they found it inconsistent to remain as members of the Socialist Party

during the war, in view of their attitude toward the government during the war? A. Of course, I cannot read their minds. My answer was that your statement does not seem to me to be a correct statement such as would express my views on the subject which you are asking me about.

Q. Now, in your book, "Labor and War," or rather, that part of the book to which Mr. Stedman referred as being the Part 1, "Labor and War of the American Labor Year Book," I find recorded at page 43, a declaration by the American Federation of Labor, adopted at its session held in Washington, March 12th, where all the members of the Executive Council, 148 representatives of 79 affiliated national and international unions, five unaffiliated organizations and the five departments of the American Federation of Labor were present, and your book indicates in the footnote on page 43 that the declaration was adopted unanimously and that declaration concludes with these two short sentences: "In this solemn hour of our nation's life it is our earnest hope that our Republic may be safeguarded in its unswerving desire for peace, that our people may be spared the horrors and the burdens of the war, that they may have the opportunity to cultivate and develop the arts of peace, human brotherhood and the higher civilization, but despite all our endeavors and hopes should our country be drawn into the maelstrom of the European conflict, that with these ideals of liberty and justice herein declared as the indispensable basis for national policies, we offer our services to our country in every field of activity to defend, safeguard and preserve the Republic of the United States of America against its enemies, whosoever they may be, and we call upon our fellow workers and our fellow citizens in the holy name of labor, justice, freedom and humanity to devotedly and patriotically give like service." Did the Socialist Party in the United States or any branch thereof ever during the war or at any time pass any resolutions of similar character? A. Not to my knowledge.

Q. Now, the times, the mass action to which you refer, you have spoken about strikes? A. Yes, sir.

Q. Are strikes one of the means of mass action which the Socialist Party contemplates the use of? A. On occasions where they are suitable for the purposes of the working class, yes, sir.

Q. Did you ever hear of any political party advocating the use of strikes? A. Oh, yes.

Q. Socialist Party? A. Yes.

Q. Did you ever hear of a general strike? A. Very often.

Q. What is a general strike? A. A general strike means a strike which, if the phrase is used accurately —

Q. Let's use it accurately. A. Yes. It means a strike which extends to numerous trades and occupations for some general purposes concerning the interest of the working class movement as a whole.

Q. Yes. A. We might call it a general strike without it being absolutely universal. I suppose it would be hard to say just how large it would be to call it general, but I think my answer is clear.

Q. I think it is too. And in connection with manifested and declarations of party principles, the Socialist party refers to political action backed up by industrial action; one of the things that is carried in mind and is indicated by the language used is the use of the general strike, isn't it? A. It might be one of many things carried in mind in that particular connection.

Q. And the manner in which you generally intend or assume it may be made effective is to back up political action; isn't that true, Mr. Lee? A. Will you repeat the question?

Q. Read it, if you please.

(Question repeated by the stenographer.)

A. That is, it means the general strike.

Q. The general strike? A. Very frequently the general strike is used to back up political action, not always.

Q. But it is one of the means in which you contemplate the use or by which you would back up political action? A. It has been used in that way.

Q. And it is a part of the program of the Socialist party in the United States to utilize it for that purpose, isn't it? A. If the circumstances should exist which made that necessary, I take it that it would be construed so.

Q. Yes, sir. Now, will you be good enough to tell this Committee what circumstances you contemplate might make the use of it necessary? A. I can best do that by illustration, by citing cases where it has been used in history, notably in Belgium in I believe in 1893 or thereabouts, and again about 15 years ago.

By Mr. Stedman:

Q. What were the circumstances? A. Notably also in Russia some 15 years ago. The circumstances in Belgium on both occasions were these: the suffrage was based upon property and other

qualifications in such a manner that most of the people had one vote, but the people who had more than a certain amount of property might have an extra vote on that account; people who had certain academic degrees or were practising certain professions might have an extra vote on that account; so that there were some people who had two votes, some people who had three votes, with the result that the parliamentary body was entirely unrepresentative of the political views of the population. For many years the advocacy of universal equal suffrage, that is to say, the extension of the one vote to all adults under our usual restrictions such as exist in most states of this country, and the abolition of plural voting, that advocacy was carried on through educational means through the introduction of measures in parliament, which were systematically defeated by that majority in parliament which was elected by the plural votes of a minority of the people. Under these circumstances about nearly 30 years ago the working class organizations, organizations representing that part of the population who were for all practical purposes disfranchised and excluded from a share in political power under this system resorted to the general strike as a means of bringing pressure to bear upon the ministry to introduce a universal and equal suffrage bill, and upon the majority parties in parliament and the classes that stood behind them to carry through that bill. The result was a partial victory. The same method was used again some twelve or fifteen years later, and again with partial success. The same method was used in the Russian revolutionary times of 1905-06. It was referred to earlier in the day here — where there occurred throughout a great part of Russia, Finland, Poland and the other Russian lands a strike involving not only far the greater part of the manual workers but involving professional people; the majority of them, it is safe to say, of the lawyers, teachers, physicians, engineers, technical men — men of various professions; the purport of that strike being to exert pressure upon the Czar's government to surrender to the demand of progress for a representative and free government in Russia.

Mr. Stedman.— And how about England recently?

Mr. Conboy.— You can suggest anything you desire along that line, Mr. Stedman.

The Chairman.— Then you gentlemen will get into indiscriminate debate again?

Mr. Conboy.— I do not want that.

The Witness.— Perhaps these cases may be sufficient to illustrate this point. I cited these cases in answer to that question. If the cases will justify, in our minds, taking such action, provided these are cases of political action in the narrow sense of the word, that is futile, where there is a majority, and it may be an overwhelming majority of the people are utterly powerless to bring about any change through the channels of legislation, because the legislature is packed under existing constitution, either in the case where votes do not exist, as it is in Belgium and Prussia, where the voting is not clear. It is the only means, and that is some extra parliamentary means, and among those is the general strike.

By Mr. Conboy:

Q. I intended to have you confine yourself, Mr. Lee, to conditions existing in this country, and if possible in this State, because we are not particularly concerned with the conditions that prevailed in either Russia or Belgium, but in the State of New York and in the United States which, in your judgment, would justify the combination of political and industrial action, the latter being manifested by the general strike to which you have just referred? A. Which is the particular form of political action combined, I should say — I am expressing my own opinion, but I believe it would be the opinion of socialists generally, that the occurrences, if they should occur in this country or in this State of conditions such as prevailed in Russia in 1905, or in Belgium at the time I mentioned, or in Prussia, would make such action justifiable and necessary.

Q. We have not had any such thing in the United States as the conditions to which you have referred there, have we? A. No, sir.

Q. Sir? A. No, sir.

Q. And yet, nevertheless, in the Chicago manifesto of September, 1919, the Socialist party declared as follows: "To insure the triumph of socialism in the United States, the bulk of the American workers must be strongly organized, politically, as socialists, in constant, clear cut and aggressive opposition to all parties of the possessing classes — A. Yes, sir.

Q. — they must be strongly organized in the economic field on broad, industrial lines as one powerful and harmonious class organization cooperative with the socialist party — A. Yes.

Q. — and ready in cases of emergency to reinforce the political demands of the working class by industrial action — A. Yes.

Q. I ask you what condition you had in mind when that manifesto of September, 1919, was adopted in the city of Chicago, in Cook county, in the State of Illinois, in the United States of America? A. In the United States of America. In the first place, I call your attention to my answer a little while ago. They were here referred to industrial organization and industrial action in its connection, as you said, with political action. What you asked me, if the possible use of the general strike would be one of the things that we would have then in mind. And the answer is yes, it would be one among many things that we would have in mind in that connection, and the manifesto to which you referred.

Q. Are you now addressing yourself to the question I asked you? A. I am trying to.

Q. Perhaps you are, and I will not interrupt you if you say so. Suppose you go right on, Mr. Lee? A. I call your attention to the fact that the passage of the manifesto that you read, and the manifesto as a whole, I believe makes no reference to the general strike. It makes reference to the industrial organization and industrial action to back up or reinforce, perhaps, is the word, the political action of the working class. It refers to emergency. If that emergency arising in the State of Illinois or the State of New York, or the United States, should be in appearance in this country of political conditions corresponding to those which I have cited, then I should say in all probability the general strike would be one of the forms of industrial action then to be considered. I hope, and I think every Socialist hopes, and I hope — I have no doubt that any member of the Committee and the Assembly, also hope that no such emergency will arise in this country at any time.

By Mr. Conboy:

Q. Now, I draw your attention, Mr. Lee, to the difference between the explanation you have made and the introductory words of this manifesto. This manifesto does not refer to emergencies. A. It does in this paragraph.

Q. It says "To insure the triumph of Socialism in the United States." A. The word "emergencies" occurs there.

Q. "The bulk of the American workers must be strongly organized politically as Socialists, in constant, clear-cut and aggressive opposition to all parties of the possessing class. They must

be strongly organized in the economic field on broad industrial lines as one powerful and harmonious class organization co-operating with the Socialist party and ready, in cases of emergency, to reinforce the political demand of the working class by industrial action." A. You asked me whether that refers definitely to the use of the general strike and what emergency would necessitate the use of the general strike. It is that question I have answered. Perhaps I have taken your question too narrowly. If you ask me what we mean by "industrial action reinforcing the action of the working class," I will answer it means very much more than that. It means things quite aside from that. I shall explain if you desire it.

Q. Now, Mr. Lee, if the bulk of American workers to whom you have referred to in here were sufficiently strongly organized in the economic field on broad industrial lines to reinforce the political demands of the working class by industrial action, you would have available then, would you not, the instrumentality, or agency, of the general strike? A. It would then be a possibility.

Mr. Stedman.—I do not want to interrupt, but I think I can make this concession: there was a bill to nationalize the railroads and the men went on strike to reinforce their demands.

Mr. Conboy.—That is not a general strike, as you very well know.

Mr. Stedman.—I can see the miners and the whole working class going out on strike protesting against the government paralyzing them rather than taking the miners under control. That would be general. But if the working class made such a demand to reinforce a general political demand for the relaxation of such an injunction, the Socialists would stand side by side with them everywhere.

By Mr. Conboy:

The concession that is made is sufficient in some respects, but I am endeavoring to have the witness indicate that the combination of the Socialist party and of industrial action through the general strike is the contemplated program according to the Chicago Manifesto. He can either say that it is or is not.

The Witness.—I cannot say that it is or is not because, as I have said, industrial organization and industrial action include very much besides the general strike; and you desire me to say that it means the general strike. It means much besides that.

Mr. Conboy.—I do not care whether it means anything else than the general strike or how much more than the general strike it includes. I want to know if it does include the general strike.

The Witness.— I have said so, that it is a possibility.

By Mr. Conboy:

Q. Then you do not contend, do you, Mr. Lee, that conditions now exist that would necessitate a general strike? A. At the present moment I do not know of such conditions.

Q. Then why the adoption of this manifesto in September of 1919 by the Socialist Party?

Mr. Stedman.— I am objecting to this on this ground: Mr. Lee may not see the need of a general strike today. Someone else may think there is need. For instance, the party has expressed itself there. Personally I think the mining situation was an instance where there should have been. Mr. Lee may not. So that speaks for the party and not for an individual.

The Chairman.— Overruled. Read the question.

(Last question read by reporter.)

The Chairman.— You may answer.

The Witness.— The Socialist Party was then in convention—the National Convention—it was not going to remain in continuous convention. It did not act with reference to the situation particularly existing on a particular day. It outlined a general policy, of political organization and of industrial organization, which was intended to be of such a nature that it could last, at any rate, until the party might, if necessary, revise it.

Q. And I understood from your explanation with regard to the elimination of the anti-sabotage plank in your platform, that the Socialist Party does not adopt planks or statements of policy where there is no necessity for them. Am I correct in that assumption? A. Where there is no necessity for them, assuredly; and there my answer was intended to indicate that we thought there was a necessity for it.

Q. You thought there was a necessity for it? A. This outlined a general policy of organization and action. You asked me whether, at this moment, I think there exists a situation which calls for a general strike. I answered at this moment I do not think there does.

Q. Now, let us assume for the moment, Mr. Lee, that these five gentlemen whose seats are in question in this party should present a political program here in the shape of proposed legislation, and they were reinforced by the combination of industrial action, including within its weapons the general strike; it would be possible for them, would it not, in the event that the Legislature of this State refused to adopt the movement which they presented for adoption by the Legislature, to cripple the industries of the State and to starve the people thereof? A. I think you are assuming, I almost say, an impossible condition; that the people should elect an overwhelming majority upon one side and then be so overwhelmingly organized as to be able to use industrial action on the other side.

Q. Ah, no, Mr. Lee; there might be an organization of industry that might at the same time be a minority of population; cannot you contemplate such a thing as that? A. I can imagine it if you like, but it doesn't happen.

The Chairman.— Suppose it did; let's see what there is to it.

The Witness.— Really, Mr. Chairman, I cannot answer it. It is an impossible situation. It is an imaginable but not a possible situation.

Q. Then if that be the case, Mr. Lee— A. If you like I can give you an illustration.

Q. With the permission of the Chairman, if that be the case, Mr. Lee, if political control always goes hand in hand with industrial control, you do not need to fortify the political program of your party by industrial action, do you? A. Oh, yes.

Q. You do have to do that? A. Yes, continuously, in more ways than one.

Q. Your statement then is that in order to bring about the program of the Socialist Party you must not only have the Legislative majority that you speak of, but that must also be backed up by the possibility of industrial action including the general strike as you have explained it? A. Possibly including the general strike if the emergency is such as to call for that particular industrial action.

Q. But I understand your explanation to be, for such comfort as it gives us, that you don't think that at the present time such an emergency exists as would warrant the calling of a general

strike. A. If at this moment such an emergency existed I suppose it would at this moment be in the course of being taken up by working class organizations both political and industrial. I do not know of such a proposition being considered at this present moment.

Q. Did the Socialist Party of this country advocate at any time a general strike of all trades? A. Not in a more definite way than the manner in which you have indicated.

Q. In any way; I cannot be as definite as you can be. A. The question is of course a pretty indefinite one.

Q. It is definite to this extent, has the Socialist Party in this country ever advocated or proposed a general strike? A. The Socialist Party has never proposed a general strike in this country.

Q. There have been general strikes proposed, haven't there? A. There have been at times.

Q. When was the last time to your knowledge that a general strike was proposed?

Mr. Stedman.— When?

Mr. Conboy.— At any time, Mr. Stedman.

A. In Pennsylvania within the last few months, the organized labor of that State as represented in the State Federation of Labor proposed, seriously considered, the advisability of a general strike as a response to the deprivation of fundamental, civil political rights to working people in connection with the steel strike, and it has been considered also, as has been said with regard to the proposal to take away from mine workers and the proposal to take away from railway workers the right to strike as an ordinary industrial action.

Q. That is, there was an emergency assumed in those conditions which in the opinion of those people who were dealing with it justified the call of a general strike? A. To the extent at least of considering the matter definitely — no general strike was called.

Q. But to the extent of considering the matter definitely? A. Yes.

Q. Did the Socialist Party have any part in that representation? A. The Socialist Party as such, no.

Q. Were there Socialist party representatives in the representation? A. Socialists, Republicans, Democrats and possibly Pro-

hibitionists. Undoubtedly all three of them as representatives of the parties that I named.

Q. The votes of those who had the power of determining whether it should or should not be called at that time, were opposed to it? A. My impression is there was no vote upon the motion to call a general strike. My impression is that such a motion was not made in a matter to come to a definite vote.

Q. Were you there, Mr. Lee? A. I was not.

Q. Now, Mr. Lee, you have been asked this morning to give some explanations with regard to political parties in Russia and the character of the existing government there. Are you familiar with the Soviet Constitution which determines the representation in such National Assembly as is constituted by the Constitution itself? A. I have read it; yes, sir.

Q. There is a provision there making a discrimination, isn't there, between the inhabitants of urban and of rural communities? A. There are two systems of representation for urban and rural communities.

Q. Under the system of representation, so far as the people in cities are concerned, each 25,000 of the inhabitants of a city is entitled to one representative? A. My impression is that each 25,000 qualified voters in the cities is entitled to a representative.

Q. And so far as the rural communities are concerned, it requires 125,000 qualified voters to send one representative to the Assembly? A. My impression is that so far as the rural communities are concerned, it requires 125,000 inhabitants.

Q. One hundred and twenty-five thousand inhabitants? A. Yes. I do not know the reason for that different arrangement with regard to the two which in the one case makes one representative for so many qualified voters and in the other case so many inhabitants. There may be some special conditions in the Russian situation that make that convenient.

Q. Do you know, Mr. Lee, what the difference in percentage is in Russia between the peasant and the proletarian classes? A. The peasant class is undoubtedly very much more numerous; the percentage I cannot state.

Q. To what extent; you have been interrogated as an expert on Russian affairs, and we must accept you as such an expert; I trust you will not dispose of that contention adversely — A. I don't know whether I can qualify as an expert on Russian affairs. That would be claiming a good deal.

Q. You know that 80 per cent of the people of Russia belong to what is known as the peasant class? A. I should imagine that an overwhelming majority.

Q. And 20 per cent belong to what is known as the proletarian class? A. Those figures are not exactly right because there are some who are not either.

Q. There were less than 5 per cent, according to Mr. Stedman, who belong to the dukes and counts and lords.

Mr. Stedman.— I will make it 7 per cent.

The Chairman.— I do not see how it is important.

Mr. Conboy.— It is not, Mr. Chairman, and I would not have asked this question along these lines if it were not for the evidence of this morning brought out by Mr. Stedman.

The Chairman.— What good would that do?

Mr. Conboy.— I do not believe it would do a bit of good.

The Chairman.— It was an historical matter which I allowed in order to get through with this part of the case on Friday.

The Witness.— If one class of population, the peasant class, is three or four times as numerous as the proletarian, I think that is no doubt true.

The Chairman.— I do not think it is important.

Q. Who is the president of the Pennsylvania Federation of Labor? A. Mr. James H. Maurer, of Reading.

Q. He is a Socialist? A. He is a Socialist.

Q. And one of the leading Socialists of this country? A. Yes, and has been president of the Pennsylvania State Federation of Labor for several years, re-elected year by year.

Mr. Conboy.— Mr. Chairman, there are some features of Mr. Lee's testimony that in connection with a hurried cross-examination of this character it may not have been possible for me to touch upon, and I am sure Mr. Lee would come up here again if he were requested to do so, in the event we should ask to have him return for further cross-examination.

The Witness.— I should be glad to know when so as not to have to waste time.

Mr. Conboy.— We won't make any arrangement that will conflict with anything you have on hand.

The Witness.— I am being inconvenienced by my absence, but I will come whenever it is necessary. I will make an arrangement for that.

The Chairman.— I allowed this witness to go into an affirmative explanation way beyond what you might class as cross-examination, so that Mr. Stedman took you in hand and proved substantially the situation in Russia. That was a matter of history for the information of the Committee. If they have any questions to ask on that, and that won't take too much time, I am inclined to hear it, but I shall not be very much inclined to go into much more of this historical matter next week.

The Witness.— For myself, I am at the disposal of the Committee.

The Chairman.— It is a good time to do it to-day, when we are closing up this feature of the examination.

Mr. Conboy.— I am of the opinion, largely of the opinion of the Chairman with respect to it. It seemed to me at the time it was a matter in which we had no concern.

The Chairman.— It would be a good part of their historical defense, or historical explanation, I will put it.

Mr. Conboy.— I do not suppose Mr. Lee would guarantee the accuracy of every statement he made here.

The Witness.— I don't suppose so.

The Chairman.— I am not inclined to keep on this branch of the case very much longer. I warn you, gentlemen.

By Mr. Stedman:

Q. Mr. Lee, if I may call your attention to the following: "Q. Was Mr. Hayward in the party at that time? A. Not at that time. He was already out of the party."

Also, "And they affiliated generally with the I. W. W.? A. Generally speaking, it is affiliated with them where it is outside of the party."

The questions are confusing. I would like to emphasize it by restating the question if that was asked. I am referring to the

typewritten or mimeographed page No. 944, of yesterday. The I. W. W. left the party, didn't they —

The Chairman.— On this question of the people having a right to strike, I don't consider it important here. The question before us here is: Are these gentlemen disqualified from sitting in the Legislature?

Mr. Stedman.— I wasn't going to ask any questions; a strike has not been outlawed.

Mr. Conboy.— There is no contention of that, but in order that this committee may have a clear understanding of the nature of the conditions that you are considering, it is extremely desirable for you to know that a part of the program of this party contemplates a combination of political with industrial action, and within industrial action one of the weapons in this army is that which is known as the general strike. Now, Mr. Chairman, I reside in the city of New York, where there are living 100 feet above the surface of the earth today, more people than were in that city when I was born, not one of whom produces or makes the articles of food that he consumes, the articles of clothing that he wears, the things that go into the house in which he lives. If there were such a thing as this cataclysm that has been referred to as one of the weapons which this party designs to use, if there were such a thing as that, the population of that city would starve.

The Chairman.— Well?

Mr. Conboy.— And that is the condition you have got to take into consideration in determining whether the activities of this so-called political party which intends to enforce and buttress and support its political propaganda by that kind of industrial action, does or does not qualify or disqualify its members to sit in this body.

The Chairman.— Yes, I get your idea.

Mr. Stedman.— I think we may take a chance that the working class would not strike themselves into starvation.

The Chairman.— We fully understand that.

Mr. Stedman.— I want to call attention to one thing more and that is back again on the 25 and 2,000 and 125,000 inhabitants. In the city you could get the voters, 25,000. In the country you

could not, and they took the population, figuring five to the family. It is equal representation.

Mr. Conboy.— You don't mean to suggest to this committee, Mr. Stedman, do you, that there are five to a family where everybody over the age of 18, both male and female, were?

Mr. Stedman.— I think in Russia they are.

The Witness.— The families are very large over there.

Mr. Stedman.— The families are very large over there.

Mr. Conboy.— That may be one good thing about it.

The Chairman.— I think without the committee have some questions to ask on the Russian situation, we won't go into it any further.

Mr. Stedman.— Mr. Lee, I don't think there is anything more.

(Witness excused.)

Mr. Sutherland.— That is your wish?

The Chairman.— Proceed.

Mr. Sutherland.— We have tried out of the heterogeneous and miscellaneous mass of exhibits and documents at our disposal — we have tried to arrange certain definite lines of procedure, and in order to keep that up and not delay anybody with confused attempts, we thought we might properly ask the committee to suspend at noon today, not that we might take up some other work, but that we might continue to devote ourselves to this work. We have been working at this case to 1 o'clock every morning, and we are going to go at it immediately until the next session of the committee. Now, if you desire us to go ahead, we will proceed. We are here only to give such assistance as we can to the Committee.

The Chairman.— Proceed. There is another matter that you might close this afternoon. That is Mr. Martens' testimony. You have had it printed and it has been on my desk two days. It seems to me you might dispose of that now.

Mr. Conboy.— We are ready. Don't get the idea, Mr. Chairman, that we are not ready to go on, because we are.

The Chairman.— Then, proceed.

Mr. Conboy.— Please mark for identification Volume 1 of the transcript of the record in the United States Circuit Court of Appeals for the Seventh Circuit, in the case of Victor L. Berger and others, plaintiffs in error, against the United States of America.

(The volume referred to was marked Exhibit 67 for identification).

Mr. Conboy.— I offer in evidence from this record — I have it here in circular form — an article called “The Price We Pay,” by Irwin St. John Tucker, published by the American Socialist.

(The article referred to was marked Exhibit 68 in evidence of this date).

Mr. Stedman.— The same objection. I want to object to it because the defendants are not connected with it or associated with it, nor is there any evidence here; and furthermore it is immaterial and incompetent and does not go to the qualifications, and does not go to the proof of conspiracy. As a matter of fact Judge Rowe held it was illegal, and later on Judge Rogers, I think —

Mr. Conboy.— This is part of the military program of the Socialist Party.

Mr. Stedman.— It will show for itself, and I guess you cannot say that is part of it. It is simply an article written by an Episcopal minister and is not an official document of the party.

The Chairman.— Is he a Socialist?

Mr. Stedman.— Yes, sir.

Mr. Conboy.— It is gotten out by — it is entitled in the very first page, and gotten out in the form of a circular.

The Chairman.— Proceed.

Mr. Karlin.— I want to correct that impression. The character of the American Socialist is not on record. This is the first time it is mentioned; perhaps my friend Mr. Conboy thinks this is the American Socialist Society, which it is not.

Mr. Conboy.— I did for a moment confuse them. You are right, Mr. Karlin. It is the American Socialist which is published weekly by the national office of the Socialist Party, and you

can get the American Socialist for 50 cents per year, or 25 cents for six months, and it is described "as a paper without a muzzle." It is entitled "The Price We Pay," by Irwin St. John Tucker:

"I.

"Conscription is upon us; the draft law is a fact!

"Into your homes the recruiting officers are coming. They will take your sons of military age and impress them into the army.

"Stand them up in long rows, break them into squads and platoons, teach them to deploy and wheel.

"Guns will be put into their hands; they will be taught not to think, only to obey without questioning.

"Then they will be shipped thru the submarine zone by the hundreds of thousands to the bloody quagmire of Europe.

"Into that seething, heaving swamp of torn flesh and floating entrails they will be plunged, in regiments, divisions and armies, screaming as they go.

"Agonies of torture will rend their flesh from their sinews, will crack their bones and dissolve their lungs; and every pang will be multiplied in its passage to you.

"Black death will be a guest at every American fireside; mothers and fathers and sisters, wives and sweethearts will know the weight of that awful vacancy left by the bullet which finds its mark.

"And still the recruiting officers will come; seizing age after age, mounting up to the elder ones and taking the younger ones as they grow into soldier size.

"And still the toll of death will grow.

"Let them come! Let death and desolation make barren every home! Let the agony of war crack every parent's heart! Let the horrors and the miseries of the world-down-fall swamp the happiness of every hearthstone!

"Then perhaps you will believe what we have been telling you! For war is the price of your stupidity, you who have rejected Socialism!

"II

"Yesterday I saw moving pictures of the Battle of the Somme. A company of Highlanders was shown, young and handsome in their kilts and brass helmets and bright plaids.

"They laughed and joked as they stood on the screen in their ranks at ease, waiting the command to advance.

"The camera showed rank after rank, standing strong and erect, smoking and chaffing one with another.

"Then it showed a sign: 'Less than 20 per cent of these soldiers were alive at the close of the day.'

"One in five remained of those laddies when sunset came; the rest were crumpled masses of carrion under their torn plaids.

"Many a Highland home will wail and groan for many a year, because of these crumpled masses of carrion, wrapped in their plaids, upon a war French hillside.

"I saw regiments of Germans charging downhill against machine gunfire. They melted away like snowflakes falling into hot water.

"The hospital camps were shown, with hundreds and thousands of wounded men in all stages of pain and suffering, herded like animals, milling round like cattle in the slaughter pens.

"All the horror and the agony of war were exhibited; and at the end a flag was thrown on the screen and a proclamation said:

"'Enlist for your country!' The applause was very thin and scattering, and as we went out, most of the men shook their heads and said:

"'That's a hell of a poor recruiting scheme!'

"For the men of this land have been fed full with horror during the past three years, and though the call for volunteers has become wild, frantic, desperate; though the posters scream from every billboard, and the parades and red fire inflame the atmosphere in every town.

"The manhood of America gazes at that seething, heaving swamp of bloody carrion in Europe and says, 'Must we — be that?'

"You cannot avoid it; you are being dragged, whipped, lashed, hurled into it; your flesh and brains and entrails must be crushed out of you and poured into that mass of festering decay.

"It is the price you pay for your stupidity — you who have rejected Socialism.

" III

" Food prices go up like sky-rockets; and show no sign of bursting and coming down.

" Wheat, potatoes, corn, are far above the Civil War mark; eggs, butter, meat — all these things are almost beyond a poor family's reach.

" The Attorney-General of the United States is so busy running down German spies and sending to prison men who do not stand up when the Star Spangled Banner is played, that he has no time to protect the food supply from gamblers.

" Starvation begins to stare us in the face — and we, people of the richest and most productive land on earth are told to starve ourselves yet further because our allies must be fed.

" Submarines are steadily sending to the fishes millions of tons of food stuffs; and still we build more ships, and send more food; and more and more is sunk.

" Frantically we grub in the earth and sow and tend and reap; and then as frantically load the food ships, and then as frantically sink with them —

" We, the 'civilized nations' of the world!

" While the children of the poor clamor for their bread, and the well-to-do shake their heads and wonder what on earth the poor folks are doing.

" The poor folks are growling and muttering with savage sidelong glances, and are rolling up their sleeves.

" For the price they pay for their stupidity is getting beyond their power to pay!

" IV.

" Frightful reports are being made of the ravages of venereal diseases in the army training camps, and in the barracks where the girl munition workers live.

" One of the great nations lost more men through loathsome immoral diseases than on the firing line, during the first eighteen months of the war.

" Back from the Mexican border our boys come, spreading the curse of the great Black Plague among hundreds of thousands of homes, blasting the lives of innocent women and unborn babes.

" Over in Europe ten millions of women are deprived of their husbands, and fifty millions of babies can never be.

"Of these women who will have their mates given back to them, there are twenty millions who will have ruined wrecks of men; mentally deranged, physically broken, morally rotten.

"Future generations of families are made impossible; blackness and desolation instead of happiness and love will reign where the homes of the future should be;

"And all because you believed the silly lie, that 'Socialism would destroy the home!'

"Pound on, guns of embattled hosts; wreck yet more homes, kill yet more husbands and fathers, rob yet more maidens of their sweethearts, yet more babies of their fathers;

"That is the price the world pays for believing the monstrous, damnable, outrageous lie that Socialism would destroy the home;

"Now the homes of the world are being destroyed; every one of them would have been saved by Socialism. But you would not believe. Now pay the price!

"V.

"The war, you say, is all caused by the Kaiser; and we are fighting for democracy against autocracy. Once dethrone the Kaiser and there will be permanent peace.

"That is what they said about Napoleon. And in the century since Napoleon was overthrown there have been more and greater wars than the world ever saw before.

"There were wars before Germany existed; before Rome ruled; before Egypt dominated the ages.

"War has been universal; and the cause of war is always the same. Somebody wanted something somebody else possessed, and they fought over the ownership of it.

"This war began over commercial routes and ports and rights; and underneath all the talk about democracy versus autocracy, you hear a continual note, an undercurrent, a subdued refrain: 'Get ready for the commercial war that will follow this war!'

"Commercial war preceded this war; it gave rise to this war; it now gives a point and meaning to this war.

"And as soon as the guns are stilled and the dead are buried commercial forces will prepare for the next bloody

struggle over routes and ports and rights, coal mines and railroads;

“For these are the essence of this, as of all other wars;

“This, you say, is a war for the rights of small nations;—and the first land sighted when you sail across the Atlantic is the nation of Ireland, which has suffered from England for three centuries more than what Germany has inflicted upon Belgium for three years.

“But go to it! Believe everything you are told—you always have, and doubtless always will, believe them.

“Only do retain this much reason: when you have paid the price, the last and uttermost price; and have not received what you were told you were fighting for—namely, democracy—

“Then remember that the price you paid was not the purchase price for justice, but the penalty price for your stupidity!

“VI.

“We are beholding the spectacle of whole nations working as one person for the accomplishment of a single end—namely, killing.

“Every man, every woman, every child must ‘do his bit’ in the service of destruction.

“We have been telling you all for, lo, these many years that the whole nation could be mobilized and every man, woman and child induced to do his bit for the service of humanity; but you laughed at us.

“Now you call every person traitor, slacker, pro-enemy, who will not go crazy on the subject of killing; and you have turned the whole energy of all the nations of the world into the service of their kings for the purposes of killing—killing—killing.

“Why would you not believe us when we told you that it was possible to co-operate for the saving of life?

“Why were you not interested when we begged you to work all together to build, instead of destroy? To preserve, instead of to murder?

“Why did you ridicule us and call us impracticable dreamers when we prophesied a world-state of fellow-workers, each man creating for the benefit of the world, and the whole world creating for the benefit of each man?

“ Those idle taunts, those thoughtless fears, that refusal to listen, to be fairminded — you are paying for them now.

“ Lo, the price you pay! Lo, the price your children will pay. Lo, the agony, the death, the blood, the unforgettable sorrow — the price of your stupidity!

“ VII.

“ For this war,— as everyone who thinks or knows will say, whenever truth-telling becomes safe and possible,— this war is to determine the question, whether the Chambers of Commerce of the Allied Nations or the Central Empires, have the superior right to exploit undeveloped countries.

“ It is to determine whether interest, dividends and profits shall be paid to investors speaking German or to those speaking English and French.

“ Our entry into it was determined by the certainty that if the Allies do not win J. P. Morgan's loans to the Allies will be repudiated, and those American investors who bit on his promises would be hooked.

“ Socialism would have settled that question; it would determine that to every producer should be given the value of what he produces; so that nothing would be left over for exploiters and investors.

“ With that great question settled there would be no cause for war.

“ Until the question of surplus profits is settled that way, wars will continue; each war being the prelude to a still vaster and greater outburst of Hell;

“ Until the world becomes weary of pain, the stupendous price for its own folly;

“ Until those who are sent out to maim and murder one another for the profit of bankers and investors, determine to have and to hold what they have fought for;

“ Until money is no more sacred than human blood;

“ Until human life refuses to sacrifice itself for private gain;

“ Until by the explosion of millions of tons of dynamite the stupidity of the human race is blown away, and Socialism is known for what it is, the salvation of the human race;

“ Until then — *you will keep on paying the price.*”

Mr. Conboy.— That is a communication that apparently was sent out shortly after the draft law was enacted.

Now the next is a pamphlet, No. 7, this is printed in July, 1917. This is No. 7 of the series of Organization Leaflets to be issued monthly by the National Office, Socialist Party, 803 West Madison Street, Chicago. Price 10 cents per hundred, 75 cents per thousand. If this interests you, pass it on. Subscribe to The American Socialist, published weekly by the National Office, 50 cents per year, 25 cents for six months.

July, 1917, was the month after the first registration under the selective service act.

Mr. Roe.— May I see that please before you put it in evidence?

(Paper handed to Mr. Roe.)

Mr. Roe.— If the Court please, we object to the introduction of this circular for the reason that it is unproved. In the first place it is a mere piece of paper. It might have been picked up out of the street and it is not shown to have any connection with these five men or with the Socialist Party. Merely because the paper has the word "Socialist" on it doesn't make it competent proof or proof that the paper has any connection with the party or the party has any connection with it.

The Chairman.— Well, you may proceed with that.

Mr. Conboy.— (Reading.)

"Why You Should Fight. By Irwin St. John Tucker.

"This is written at the request of the United States Secret Service, to tell you why you should fight.

"Day before yesterday, I went into the Federal Building in Chicago and asked the United States Department of investigation what they thought of my pamphlets; and they said they were very subtle. One of them said: 'I wish you would write another pamphlet and tell young Americans why they ought to fight, to protect their property and their families.'

"The Secret Service hasn't anything against the Socialists; what we object to are those who call themselves Socialists in order to bring discredit upon you by counseling violence.

"'Social revolution, as you teach it, we do not oppose; we are fighting violence, bomb throwing, shooting, poisoning, and methods of that sort.'

"And I replied, 'So are we. A bomb thrower any cause he masquerades under.'—

"This is why you should fight. It is the same reason why the million of Europeans were hurled one against another. It is in order to extend markets and conquer foreign trade.

"You must throw bombs and slaughter with machine guns to destroy the Prussian political Kaiser; in order that the American financial Kaiser may remain upon his throne at 26 Broadway and around the corner on Wall Street —

"You must fight to protect your property, your women and your children.

"Fight to protect your property — you who have never owned a dollar beyond your daily needs, and never expect to.

"Fight to protect your property — you three-quarters of the American people who are forced to live below the standard of human decency, by industrial conditions over which you have no voice.

"Fight to protect your property — which has been stolen from you by the owners of your lives and your labor; fight to keep your property from falling into your hands again.

"Fight to protect the loot wrested from you by speculators in foods, in land, in mills and mines, in the lives of human beings; fight that it may remain in the hands which have taken it from you, lest you should rise in your might and seize it again.

"Fight for the starved little ones, deprived of food and air and sunlight, forbidden to play in God's green meadows; fight that the cost of the war may be saddled on them to shut out the sunlight forever.

"Fight for the little children herded in intolerable holes in cellar and slums; that they may be penned therein forever.

"Fight for the children deprived of the right of education; that they may continue fools forever.

"Fight for the children thrust into the maelstrom of industry by the families' desperate struggle for a bare living; that they may continue to work their fingers to the bone forever.

"Fight for the women of our broad land; that millions of them may be deprived of husbands and millions more may be received back from the war battered, broken wrecks of men.

"Fight for the housewife who cannot now meet the expenses of living; that the gap may be yet wider between the income and the need.

"Fight for your homes; fight for the palaces of Newport which you may not enter wherein degenerate idlers spend millions in wanton luxury; that they may be yet more splendid.

"Fight for the putrid, decaying holes wherein so many of you are compelled to live; that they may be yet more putrid and fall yet farther into decay.

"But above all, and through all, and after all; fight for the monarchs who oppressed us with an intolerable despotism by the rule of money and the iron grip of might; for we have chosen them and they are ours.

"For the hero of Homestead, who slaughtered his men; for the hero of McKees Rocks, who slaughtered his men;

"For the heroes of Ludlow and Forbes; for the heroes of Calumet and the Messaba Range; for the heroes of West Virginia coal mines; for they slaughtered not only their men, but also their women and children.

"Fight for their God and their Right — Money is their God, and Corruption is their Right.

"Fight, sons of the people, for the pigs of Serbia. For the pigs of Serbia, being shut out of the Austrian markets, desired to gain exit to the markets of the world through the port of Durazzo. Hence the beginning of this war.

"The original pigs of Serbia are all dead; but you must die to avenge their ghosts —

"'Why should we fight for them?' you ask me. 'This is a poor way to counsel enlistment.'

"Fools, that is the way to learn how to fight. Go forth and destroy the kings of divine right abroad. And when the war is over you will have learned the means and method of destruction of kings.

"Then when you march back home in your millions and find that Chinese coolies have been brought here by the million to take possession of the country for you; when you find that the peons of Mexico have taken away your jobs; that your wives and children, your grandmothers and grandfathers are pressed into service; and you, who have served your owners well, are cast into the rubbish heap.

"Then the whisper will run abroad throughout the land, rumbling in the ears of those who have done this thing to you:

" '*Take heed to yourselves, for the devil is unchained!*'

"For weary years we Socialists talked and argued, persuaded and begged with you to fight with weapons that leave no dead behind.

"With reason, persuasion, with facts of history and facts of science, with the arguments of thinking men to thinking men — with these we sought to arm you; but you laughed at us, and refused.

"Learn your lesson well, is all we ask. Your lesson is that the world must be made safe from democracy; that lesson has been set for you by the ablest of schoolmasters. Learn it.

"But learn one thing further, that is, to tell a tyranny from a democracy when you have seen them.

"Learn to distinguish the label from the goods; when you go out after democracy, *come home with it!*

"There is but one democracy, and that is Socialism. There is but one end of tyranny, and that is Socialism.

"There is but one hope of peace, but one star of the day, but one justice, but one sure foundation of the brotherhood of man — that is Socialism.

"There is one dynamite more powerful than the lyddite with which you are taught to juggle, and that is *intelligence*.

"There is one weapon more deadly against the forces of tyranny than trinitrotoluol, and that is *class consciousness*.

"There is one force mightier than armies and nations organized for murder, and that is the hand which yet shall stay the grip of war — the hand of Socialism.

"There is one sound louder than the sound of battle lines a hundred miles in length, roaring and flaming with volcanic fury and casting forth a lava that is composed of scorching human flesh, and that sound is the voice of the united workers of the world, crying '*Let there be peace.*'"

Mr. Stedman.— On the subject which you have just read, as portions of the evidence on the Servian pigs, I think I should be allowed to read something perhaps in explanation of that.

Mr. Wolff.—Mr. Chairman, I submit if there is anything in this record which Mr. Stedman may wish to read, he may read it as part of his own case.

The Chairman.—Go ahead.

Mr. Wolff.—We next offer in evidence from this record government's Exhibit No. 24, being a letter dated Chicago, Ill., August 1, 1917, addressed to the editors of all Socialist papers and signed by Adolph Gerber, executive secretary. That is on pages 220 and 221. It already appears here that Adolph Gerber was the executive secretary of the Socialist party of America.

The Chairman.—Go ahead.

Mr. Wolff (reading).—"To the editors of all Socialist papers"—

Mr. Stedman.—May I have an objection to the competence of this?

The Chairman.—The objection is overruled and an exception is noted.

Mr. Wolff (reading):

"Dear Comrades.—As the capitalist papers mold the sentiment of the large reading public, so our papers are the medium of information for our readers. Our people act upon the information given them through our press.

"The Socialist party is on trial. We will either be equal to the needs of the hour or we will not. It all depends on how much interest and enthusiasm we are able to arouse.

"You readily realize that the Socialist party needs the Socialist press and the Socialist press needs the Socialist party. Our interests are common. We want to make the Socialist party stronger so that the press can be made stronger. We want to make the press stronger so the party can be made stronger.

"The national organization is the connecting link in the chain of Socialist activities. We cannot function properly so long as we are hampered by financial restrictions.

"There is an unprecedented opportunity open to us. We want to take advantage of it. You can be of material assistance.

"As a result of the presidential campaign, the St. Louis convention and other expenses incurred in connection with

our peace propaganda, we have liabilities to the amount of \$20,000 in round numbers.

"We owe some of this money to comrades who are in need of it. We owe some to other creditors who have been patient with us. We want to pay all of these bills and do it soon so we can undertake new work without unnecessary delay.

"What I am asking of you, comrade, is to use a little space in the columns of your paper, if not every issue, then at frequent intervals, to emphasize the need of clearing the financial decks of the Socialist Party. To meet our urgent liabilities we issued special "party building and anti-military assessment stamps, 25 cents apiece, and we want to dispose of at least one to every member. If we can do that we can pay all our bills. Some members have already purchased three or four. Surely all others can purchase one.

"In order to carry on our fight for a free press and free speech, we are raising a 'Liberty Defense Fund.' Each State organization gets half of all that is collected from the respective States. With that fund we will help fight our battles. You can issue an urgent call to the members to respond as they never responded before. Will you do it? Make the appeal in your own way. Or, if you desire, we will furnish the articles, and will be reasonable in space.

"Please do not lay this aside, but write me at once, assuring me that you will join in a supreme effort to lift the burden of the national organization and place it in position to meet all challenges from the enemy.

"Yours for victory,

"ADOLPH GERBER,

"Executive Secretary."

Mr. Stedman.—Do you suppose in any way if there are letters like this that you could furnish us with the exhibits that are in here (indicating Exhibit 67 for identification)? And if we want to offer a general objection we can, and if we want to incorporate them we can pick them out from the record, and you can refer to it. If this is very extensive, and I think there are over 1400 pages in this record — I do not know how much counsel prefers to refer to.

The Chairman.—Do you desire to read any further? Now, I think it proper and we will try and confine ourselves to it as near

as we can, to the rule — Of course, this is all subject to modification, but it is going to be pretty strictly followed.

After consulting with the Committee we thought we would place on the record the following rule:

The Committee, through its Chairman, makes the following regulation to take effect after to-day. Documents can only be read in evidence in their entirety, when the Chairman deems necessary. The party offering the document can read only such portions as they deem relevant and competent, with the right given to the other party to read such other excerpts as they may deem necessary to complete the record, always reserving to each party the right to have the whole document read in the evidence, in the discretion of the Chair.

Mr. Wolff.— Mr. Chairman, in connection with the paper entitled "The Price We Pay," which was read by Mr. Conboy, we desire to have it appear in the record, that it appears from the record of the Berger case, at the bottom of page 209, that there were printed and delivered on the order of Adolph Gerber one hundred thousand, and subsequently seven hundred and fifty thousand copies of the article "The Price We Pay," and that these were delivered to him as executive secretary of the Socialist party.

The Chairman.— All right.

Mr. Wolff.— And it appears at page 290 of Exhibit 47 that there were 50,000 copies of "The Price We Pay" sold. That was signed by the national office of the Socialist Party.

Mr. Stedman.— It may be that, but there were a great deal more than that.

Mr. Wolff.— There were 850,000 copies of it made.

Mr. Stedman.— If you read them off, you can refer to this. I think I probably know most of them; probably all of them, and if you can give me a copy of your list, you can put those in evidence subject to objection, and we could refer to them.

Mr. Wolff.— I think with the record at this time, and this length, the only way that the committee can be kept abreast of this testimony and be aware of it from day to day, is to have so much of it read as is material.

The Chairman.— That is in accordance with our rules.

Mr. Wolff.— Exhibit 26 on page 223 — I think these exhibits are short, Mr. Chairman.

The Chairman.— Well, proceed.

Mr. Wolff.— Page 223 of this exemplified copy of the record in the United States Circuit Court of Appeals, in the case of the United States against Berger and others —

Mr. Roe.— I mean this exhibit that you have here, what is the number of it?

Mr. Wolff.— From Exhibit 67 for identification. This is a letter signed by William F. Kruse, National Secretary, Young People's Socialist League. (Reading.)

“Dear Comrade —

Mr. Stedman.— This is objected to, and objected to specifically because Mr. Kruse is not under the direction of the National Secretary of the Socialist Party. He is elected by the members of the Young People's Socialist League, and he has no connection, authoritatively, with the Socialist Party. These persons were not members.

Mr. Wolff.— This was admitted in the case against these defendants.

The Chairman.— Never mind arguing; read what you got there.

Mr. Wolff.— (Reading):

“Dear Comrade Secretary:

“This letter is not intended for the attention of the whole league. This one is intended only for you.

“You know the conditions under which we are working. Our papers are being suppressed, our 'phone wires seem to be tapped, our every move is subject to espionage and interference. It may not be long before our organization itself is disrupted and declared illegal, as were those of the Young Socialists in Old Russia. We must be ready to bear that game when it comes.

“If you have followed my previous instructions you will now have an unofficial 'emergency' committee, composed of the most trustworthy young Socialists in your League; you

will have several copies of your most important records and especially of your mailing list stowed away in various safe and secluded places; and you will have three trustworthy officers broken in for each important job that is vital to the welfare of the League. At least one of these officers should be a girl, so that if our boys were all jailed for refusal to serve, the girls can keep the League going. Now, comes the next step.

"Get the emergency officers together and lay this matter before them. Make up your minds that if ever the Y. P. S. is suppressed you will immediately get together all of its members as quietly as possible under the name of some athletic club, dance society or pleasure circle. The name of this order **organization** should have nothing in common with Socialism, but it will be the Y. P. S. L. just the same. Should this other organization be discovered and disrupted, go through the same **process again and again and again**, if necessary.

"The important thing to remember is that this work must be carried on secretly by a few of your trustworthy members in the interest of the League. It is 'underground' work. In ordinary times it would not be necessary, but these are not ordinary times. I would urge you not to read this letter off in open meeting. Not that all your members are not trustworthy, but the fewer that know about the special plans the less chance there is for leakage. Get together to do this work. When the war is over and the liberties of our country are once more assured we can sit around the table and tell how we kept our organization alive during the crisis. But for the time being you will do well to work silently.

"Trusting that you will take care of this matter, I remain

"Yours for comradeship,

"WM. F. KRUSE,

"National Secretary, Young People's Socialist League."

Mr. Wolff.—The next exhibit appears on page 256 of Exhibit No. 67 for identification. This is from the American Socialist of April 14, 1917:

"Women and War, by Edmund R. Brumbaugh.

"A kindly, learned gentleman of 'Old Virginia' saw two women trying to induce a young man to enlist. 'I don't very

often feel like hitting women with a baseball bat,' he said, in relating the incident, 'but I did then.' He was an ex-Confederate veteran. He knew what war was. An ardent pacifist, the action of the women seemed despicable in his eyes.

"And the action was despicable. Women soliciting for such a purpose are only a step higher than women who solicit for the sale of their bodies and in fact the latter deserve only deepest compassion, while the former are entitled only to contempt. Such women are unworthy of their sex. Too sacred and solemn for them is the function of motherhood. Theirs are women's bodies, their women's physical possibilities, but lacking in them are women's hearts and women's souls.

"Something in military display seems to appeal with particular force to the feminine nature. Brass bands and soldierly carriage win her as well as eloquent wooing and big bank accounts. An effective peace propaganda, therefore, must be conducted with a view to paying particular attention to the women.

" 'Lips that touch liquor shall never touch mine' is the burden of an old temperance song. 'Hands that hold guns shall never hold mine' should be the new version.

"Sentimental? Yes. But sensible, nevertheless. It would work."

Mr. Stedman.—Do you want the reply to each one of these now? For instance — the reason I mention it — is that the man who wrote that was a pro-war Socialist patriot the week after he wrote it, one who left the party.

Mr. Wolff.—The important point is that this thing was published in the American Socialist. It does not make a particle of difference what the man who wrote it thought or whether he later changed his mind.

Mr. Stedman.—The editors and the entire force at that time were in the city of Washington and an understudy made it up with a pair of shears and threw it into the office.

The Chairman.—Supposing Mr. Stedman keeps track of those and makes a general explanation at the close? It might be better. It would save discussion; that's all.

Mr. Stedman.—These defendants did not know anything about it and are not connected with it.

The Chairman.— It is only the general theory.

Mr. Wolff.— Of what the party stands for.

The Chairman.— Well, it is the evidence for what it is worth. We will read it. We are not committing ourselves to that.

Mr. Wolff.— The next is on page 268 of Exhibit No. 8 marked for identification, published in the American Socialist of May 19, 1919, and is a poem entitled:

“BE A COWARD.”

“Be brave enough to be a coward
 And step out from the crowd
 Not every man is so endowed
 To stand with head unbowed
 Before the ignorance of mobs,
 Inspired by Mammon's tools
 That prostitute themselves for jobs
 To raise a race of fools.

Be ‘coward’ enough to shun the ‘brave’
 If courage is the choice
 To be a military slave
 And heed the master's voice
 That bids you kill for his content
 While he with care assures
 At home, his interest, profit, rent,
 As fast as it matures.

Be ‘coward’ enough to face the strong
 If need be, for the right;
 When ‘courage’ means to stand for wrong
 Beneath a flag of might;
 Be free from blood, when power commands,
 That stains the boastful ‘good,’
 With praying lips and murderous hands,
 For truth and brotherhood.

It takes a Man to face the gang,
 Majorities that rule;
 It takes a man to rather hang
 Than be a master's tool;
 If treason be to hate the sword,
 The bayonet and shell,
 Then as a 'traitor' face the horde
 That prays and fights for 'hell.'

Mr. Wolff.—Page 270 of Exhibit 67 for Identification, an article published in the American Socialist:

"Navy Gives Receipts. To show its gratitude to the women folks of those who have enlisted in the U. S. Navy, the Commandant of the Great Lakes Training Station is issuing prettily printed cards to the effect that a man from their home is now serving his country at the front in the Navy. These cards are to be publicly displayed in order to stimulate recruiting, presumably to encourage other women to swap their husbands and sons for a piece of gaudy cardboard. Any woman who would make such a trade must have a mighty low opinion of her male relations."

The Chairman.—Intermission until 4.10.

(Whereupon, at 3.55 P. M., a recess was taken until 4.15 P. M.).

AFTER RECESS, 4.15 P. M.

The Chairman.—Proceed.

Mr. Wolff.—Mr. Chairman, we desire to interrupt the reading of these exhibits long enough to offer in evidence certain bills which were introduced in the Assembly by Mr. Claessens during the year 1919, the first of which is Bill No. 362, introductory 353, dated January 29, 1919, entitled "An act to amend the military law in relation to the reserve militia," by repealing Chapter 568 of the Laws of 1916; that being the entire law relating to the militia of the State of New York. I offer that in evidence.

The Chairman.—Mark it and proceed.

(The paper was received in evidence and marked Exhibit No. 69).

Mr. Wolff.— I offer in evidence a bill introduced in the Assembly by Mr. Claessens, being Bill No. 683, introductory 645, being entitled "An Act to amend the executive law and the public officers law in relation to the employment of the state militia, national guard or state police to suppress strikes, walkouts or other industrial disputes," dated February 14, 1919.

The Chairman.— Mark it received.

Mr. Wolff.— The amendments in question being in substance that the state militia, national guard or a state police shall not exercise their powers in any manner in any part of the state to assist in the suppression of strikes, walkouts or any other industrial disputes. There is a new section also, Section 72, being proposed as follows:

"No state officer shall at any time order, direct or employ the state militia, national guard or state police for the suppression of strikes, walkouts or other industrial disputes."

(The paper was received in evidence and marked Exhibit 70.)

Mr. Wolff.— Pardon me just a moment, Mr. Chairman. Bill No. 26, introductory 25, introduced by Mr. Claessens, January 9, 1919, entitled "An act to amend the military law, in relation to a military training commission and military and disciplinary training by repealing Chapter 566 of the Laws of 1916," that being the law with relation to military training in the State of New York.

(Paper was received in evidence and marked Exhibit No. 71.)

Mr. Wolff.— Bill 175, introductory 173, introduced by Mr. Claessens, January 20, 1919, being entitled "An act to repeal chapter 470 of the Laws of 1918, entitled 'An act to amend the military law relative to the military training of boys.'"

(The paper was received in evidence and marked Exhibit No. 72.)

Mr. Wolff.— Bill No. 361, Introductory No. 352, introduced into the Assembly by Mr. Claessens, January 1, 1919, entitled "An act to repeal chapter 161 of the Laws of 1917, relating to the establishment of the department of state police and defining the

powers and duties of its force, and making an appropriation therefor."

(The paper was received in evidence and marked Exhibit No. 73.)

Mr. Wolff.—Return now to Exhibit No. 67 for identification; the next exhibit to be offered appears at page 292, published in the American Socialist of May 26, 1917, under the title "Plutes Fear Stickers."

The Chicago Daily News gives front page mention to the efforts of the authorities to stamp out a sticker campaign that has sprung up in a certain section of the city. Ascribing the work to Anarchists the paper goes on and quotes the stickers. One that was especially obnoxious to the authorities reads as follows:

"Let the preachers who pray for war,
The editors who write for war,
And the capitalists who make profits on war,
Go to war,
But workmen your place is in the workshop."

Another of the labels read:

"Thou Shalt Not Kill, Don't Commit Murder and Hide
Your Bloody Hands Under Any Flag."

A third bears the heading "Wake Up America" and goes on:

"Selective Conscription.
Compulsory service.
Militarism in the schools.
Obey the law and keep your mouth shut.
Prussianism overdone.
Ditto free assemblage.
And a free press.
Jails for radicals.
Machine guns in police stations.
Imported Chinese labor.
Good-bye eight hour laws.
Farewell steak and potatoes.
Enter rats, rice and riots."

The article goes on to state that five members of an anarchistic west side colony have been taken into custody, but the officers

would not state whether the evidence was strong enough to warrant prosecution. The story is trimmed with the usual embellishments of underground printing presses, free love colonies and the other trimmings used by the master class to cover an inroad upon the liberties of the people.

Mr. Stedman.—This is objected to along with the others.

The Chairman.—On the same ground?

Mr. Stedman.—On the ground it is a newspaper clipping and not connected with anybody connected with the party or anybody affiliated with the party.

Mr. Wolff.—Page 297: This is entitled "Resolution on War," and it is established to have been the resolution adopted at Wicker Park Hall, May 6, 1917.

Mr. Stedman.—I object to that on the ground that it was never established in the record or otherwise that it was adopted at Wicker Park Hall. The evidence was that in a meeting held by some young girls and boys, in an anteroom, this was drawn. There is no evidence that it was ever voted on by the committee. There is no evidence that it was ever voted on by the convention.

The Chairman.—You are reading from the record of what?

Mr. Wolff.—No. 67 for Identification. This is an exemplified copy of the record in the United States Circuit Court of Appeals, and the testimony in connection with this exhibit was as follows — a witness by the name of Fleming testified —

Mr. Stedman.—Mr. Fleming was Assistant District Attorney.

Mr. Wolff.—I beg your pardon. That was the examination by Fleming. William Mankus was the witness.

The Chairman.—I do not believe I will hear the testimony. What is it, a resolution?

Mr. Stedman.—A purported resolution.

Mr. Wolff.—It was adopted at the convention at Wicker Park Hall, May 6, 1917.

The Chairman.—A resolution by whom?

Mr. Wolff.—By the Socialist party.

Mr. Stedman.— Well, if that was adopted by the Socialist party I will quit the case. I do not think you will find it there. The Y. P. S. L. is not the Socialist party.

The Chairman.— Well, it is a record with “Y. P. S. L.” at the bottom of it, signed by somebody, is it not?

Mr. Wolff.— Yes, it is signed by the committee.

The Chairman.— Young People’s what?

Mr. Wolff.— Young People’s Socialist League.

The Chairman.— Well, you can read it.

Assemblyman Blodgett.— Does the record show what the result of that was, the result of the appeal?

Mr. Conboy.— Oh, no; the appeal has not been heard yet. The trial resulted in a conviction of the defendants.

The Chairman.— You may read it.

Mr. Wolff:

“Resolution on War.

“Whereas, The ruling class of the United States has succeeded in engulfing this country into the world war, and

“Whereas, The working class of the U. S. have no cause to war against the working class of any nation in the world, and

“Whereas, There is no doubt in the minds of Socialists that this is a war for profits waged in the interests of the capitalist class, but fought by the workers of the belligerent nations who have nothing to gain and everything to lose in murdering each other under the artificial stimulus of false and pernicious ‘patriotism,’ and

“Whereas, The Socialists of Germany, France and England were bitterly criticized and condemned by the Socialists of America, because at the beginning of the conflict in Europe they failed as a unit to resist the call to arms, and

“Whereas, The excuse given was that the war has come upon them so suddenly that they had no opportunity to think clearly or organize effectively in opposition, and,

“Whereas, Even though this excuse be valid for our comrades across the sea, it cannot avail in the United States.

for we have had over two and one-half years to think, and every opportunity to realize the nature of the struggle and the part that the Socialist movement should play in it, and

"Whereas, The volunteer system having failed, the governing powers of the United States have resorted to conscription to fill up the ranks of the army and navy, and whereas this failure shows clearly that the spirit and opinion of the working class and the masses are opposed to the war or military preparation for war, and

"Whereas, If our principles were true before the war they are unquestionably true now that the war has been thrust upon us, and if we are not to prove traitors to the cause of the working class, it is our duty at once to take a positive stand refusing to fight the wars of the exploiters of this country, therefore, be it

"Resolved, By the Convention of the Y. P. S. L. of Chicago, a part of the International Socialist movement, that we call upon all workers not to join the fighting forces of the nation, whether drafted or not, i. e., to bear arms or aid in the furtherance of the war in any way whatsoever, and be it further

"Resolved, That we express our hearty concurrence with the war program adopted by the Socialist Party National Convention at St. Louis, namely,

"1. Continuous, active and public opposition to the war, through demonstrations, mass petitions, and all other means within our power.

"2. Unyielding opposition to all proposed legislation for military or industrial conscription. Should such conscription be forced upon the people, we pledge ourselves to continuous efforts for the repeal of such wars, and to the support of all mass movements in opposition to conscription. We pledge ourselves to oppose with all our strength any attempt to raise money for payment of war expense by taxing the necessities of life or issuing bonds which will put the burden upon future generations. We demand that the capitalist class, which is responsible for the war, pay its cost. Let those who kindled the fire furnish the fuel.

"3. Vigorous resistance to all reactionary measures, such as censorship of press and mails, restrictions of the rights of free speech, assemblage, and organization, or compulsory arbitration and limitation of the right to strike.

"4. Consistent propaganda against military training and militaristic teaching in the public schools.

"5. Extension of the campaign of education among the workers to organize them into strong, class-conscious, and closely unified political and industrial organizations, to enable them by concerted and harmonious mass action to shorten this war and to establish lasting peace.

"6. Widespread, educational propaganda to enlighten the masses as to the true relation between capitalism and war, and to arouse and organize them for action, not only against present war evils, but for the prevention of future wars and for the destruction of the causes of war.

"7. To protect the masses of the American people from the pressing danger of starvation which the war in Europe has brought upon them and which the entry of the United States has already accentuated, we demand

"(a) the restriction of food exports so long as the present shortage continues, the fixing of maximum prices, and whatever measures may be necessary to prevent the food speculators from holding back the supplies now in their hands;

"(b) The socialization and democratic management of the great industries concerned with the production, transportation, storage and the marketing of food and other necessities of life;

"(c) The socialization and democratic management of all land and other natural resources now held out of use for monopolistic or speculative profit;

"And be it finally Resolved that the Young People's Socialist League with the aid of the Socialist Party establish a fund to aid all comrades who become involved in difficulties on account of agitating for our principle.

"Member of Englewood

Chairman

"C. A. BACHMAN

"PAUL BACKALL

"WILLIAM C. DUMKE

"I. N. HAMBURGER

"WILLIAM V. MANKUS

"LOUIS SHERMAN

"FREDERICK F. WHITE."

Mr. Conboy.— That is, in the main, the platform adopted at the St. Louis Convention, with the addition of the pledging of money, page 301 of Exhibit 67 for Identification, an article published in the American Socialist, June 2, 1917. That is the article Mr. Conboy read, entitled, "The Price We Pay."

Page 302, an article entitled, "Bonds and Bondage," by Adolph Gerber.

Mr. Stedman.— What page?

Mr. Wolff.— Page 302 — who is shown in this case to have been the Executive Secretary of the Socialist Party of America. I will read only a portion of this article, with the Chairman's permission.

The Chairman.—All right.

Mr. Wolff.— Referring to Liberty Bonds, the article says:

"These bonds are not for 'Liberty' but for bondage. We have a right to disbelieve you gentlemen of the administration. You were elected on the slogan 'He kept us out of war,' and the people not wanting war, you forced us into it.

"You told us and still tell us of your great love for 'democracy' and discipline when you passed your infamous and un-American conscription law. You in any way practice that principle. You tell us of your great concern for the welfare of the people, but what have you done to relieve the pressure from constantly increasing prices of foodstuffs? We realize that our only hope lies in ourselves and in keeping with that we shall rally the workers of the country into one organization, the Socialist Party, which is dedicated to true democracy."

Mr. Wolff.— The next is an article in the form of a poem published in the American Socialist, June 2, 1917, entitled, "Come! Ye Slaves!" by Henry Edward Keas.

"Come! Ye slaves — Register!
Come! Like sheep to the slaughter —
For willingly or not
You must fight and die for — whom?
For the 'Morgan'ited States of 'Jay'merica,
For the pot-bellied 'pay'triots of Plutocracy.
For Your Masters!

Slaves! Know ye not your masters?
 We are the same ye knew at Lawrence and Ludlow,
 At Calumet and West Virginia —
 The same who gave you bullets when you asked for bread —
 Aye? The very same.
 Slaves! Look sharp and register —
 For heavy is the penalty should you refuse —
 A prison sentence! — and mayhap the firing squad.
 Come! Slaves, Hasten!
 That we may fasten the yoke —
 For the sign of the dollar,
 For grasp and greed — greed and grasp,
 For the rape of justice,
 For the killing of free speech and press,
 For the abrogation of the right of assemblage,
 For the throttling of liberty!
 Come! Ye slaves.
 Bow the Neck — and Register!

Money secured thru the Liberty Loan will be invested in wholesale bloodshed and draw dividends in the tears of millions of American mothers.

Wilson might give Pershing and those 28,000 soldiers, soon destined for the killing beds of France, a little preliminary training by sending them against the Prussians in San Francisco Chamber of Commerce still trying to railroad labor to the gallows."

Mr. Stedman.— What page is that?

Mr. Wolff.— 303-304.

Mr. Stedman.— I object to that.

The Chairman.— Enter right there that Mr. Stedman objects to all this testimony heretofore given as read.

Mr. Stedman.— I am objecting to it on the ground that the defendants here are not parties to it, and I am objecting to the theory of picking out a lot of juvenile, inconsiderate and silly articles, and offering them in a dignified proceeding. Things of that kind may be picked up all over the United States, written by boys, and men with boys' minds, and I do not think they are competent here to show a disqualification on the part of members of this house.

The Chairman.— The objection is overruled.

Mr. Wolff.— These articles had sufficient dignity to be admitted in evidence in the United District Court in a criminal action.

The Chairman.— Well, the objection is overruled and you have an exception. Now, go ahead.

Mr. Wolff.— Page 307 of Exhibit 67 for identification, an article published in the American Socialist of June 16, 1917, entitled, "Cheer up," by Cary E. Norris.

Mr. Stedman.— What page is that?

Mr. Wolff.— Pages 307.

"Cheer Up Boys!

Wave your caps and shout for joy;

For a kind, beneficent government has bought 200,000 coffins for you.

It is not customary to purchase the coffin until after death; therefore such thoughtfulness and consideration on the part of the government ought to be fully appreciated.

Just think of the sad condition of the poor French and German boys;

Shot to death, torn into shreds, broken and mangled past all recognition, and no coffin.

Boys, resist conscription no longer;

Go joyfully on you way to the trenches!

What if you'd fail to return?

Your wives will be a given a small pension and your children the privilege of paying 75 per cent of the war debt;

And you will have been provided with a coffin;

Unless you are too badly blown to pieces.

Fathers and mothers!

Why look on the dark side of war?

Cheer up!

Of course, it is hard to see the boys march into the whirlpool of blood;

But some of them may possibly return;

And you will always have the consolation of knowing that the ones who fell had a coffin;

Unless they were too badly scattered.

So, cheer up!

Don't be pessimistic and unpatriotic.

Girl, say 'Good-bye' to your sweetheart with a smile on your lips.

Part of him may come back;
 But if you never see him again try not to think of him
 with his arms and legs blown off;
 With great holes torn in his body;
 With his face crushed beyond all resemblance to a human.
 Just think of him peacefully sleeping in the coffin provided
 for him by the benevolent government and imagine that
 his last words were:

'We are taking Democracy to Germany.'

Then, cheer up!

And then cheer up some more!

Note.—In addition to the coffin, widows of enlisted men will get \$12 per month pension, with \$2 additional for each child under 16. If she don't take care of herself and children on this she can starve. No provisions are made for coffins under such circumstances.

It was easy enough to have a registration of cannon fodder in every voting precinct in the land. It ought to be just as easy to hold a referendum on the repeal of the draft law.

July 4 is a good day to declare our independence of the capitalist system by distributing a bundle of 'The Price We Pay.'

Death, the hand maiden of war, is coming closer. The government has ordered 200,000 coffins to be used as required."

Mr. Wolff.— There follows an advertisement as follows:

"Leaflets!

Eye Openers!

'The Price We Pay'

By Irwin Tucker.

Four Pages: 20 cents per 100; \$1.50 per 1,000.

600,000 Already Sold!

'Protect Your Rights,'

By Ralph Korngold.

Two pages: 10 cents per 100; 75 cents per 1,000.

One Million Already Sold

And Still Selling!

Anti-War Proclamation and Program

(Adopted by St. Louis Convention)

Four Pages: 20 cents per 100; \$1.50 per 1,000.

Send all Orders To The

National Office, Socialist Party

803 West Madison St., Chicago, Ill."

Mr. Sutherland.—Is there any date connected with that?

Mr. Wolff.—That is in the American Socialist of June 16, 1917. The next Exhibit is on page 333 of Exhibit 67 for Identification, being an article from the American Socialist, issue of July 21, 1917, under the title, "Organization Leaflets Popular," and "Buy a Liberty Bond." Under the title, "Buy a Liberty Bond," appears the following:

"Get a real one — not the banker's kind. The bonds the banks are offering you are slavery bonds; they bind you to the chariot wheel of Morgan forever."

Mr. Stedman.—What pages, please?

Mr. Wolff.—That is page 333. Under that appears the following advertisement:

"Send a dime for 100 copies of 'Protect Your Rights,' by Ralph Korngold. June Leaflet of the Socialist Party. The Real Liberty Bonds. Send 2 dimes for 200, 3 dimes for 300, 75 cts. for one thousand. Every one delivered to a neighbor means a bond to Liberty and Future Peace.

The Socialist Party,

803 West Madison Street,

Chicago, Ill."

Mr. Wolff.—Page 370. This is a letter addressed to William F. Kruse, national secretary of the Y. P. S. L., written by one Mannie Deutsch under date of July 31, 1917. It contains the following:

"A few of our yipsels are in the drawer. They are doing their damndest to escape the draft, and they intend, if necessary, to leave the State and go hoboeing for a while. They, like the rest of the conscripts, have got to settle their troubles individually, and there is little that we can do to advise them outside of protesting against conscription which the Socialists

and radicals in N. Y. are doing their best. Hope everything is all right with you in the draft. If you fight hard as a dependent you will be exempted. I don't think C. O. will help very much but land you safely in jail. I'd rather you be out of jail. You can do more for the yipsels that way."

On page 372 there appears the answer to that letter from the national secretary of the Y. P. S. L. containing an enclosure called "Instructions to Socialist Conscripts." This contains instructions under the following headings, and I will read the headings and omit the reading matter: "Red Ink Numbers," "Physical Examination," "Exemptions," "Married Men," "Citizenship," "Men in Indispensable Industries," "Appeals," "Conscientious Objections."

Mr. Wolff.—On page 377 there appears a telegram from Adolph Gerber and William F. Kruse, addressed to Algernon Lee Rand School, 140 East 19th street, New York city:

"Please send immediately copies all Socialist resolutions on war, etc., contained your new pamphlet. Important Adolph Gerber, William F. Kruse."

On the same page 377 is a letter addressed to William F. Kruse by A. H. Trachtenberg, dated June 11, 1918. The letter-head:

"The American Labor Year Book prepared by the Department of Labor Research, Rand School of Social Science, 140 East 19th street, New York, telephone Grammercy 1022, A. L. Trachtenberg, Editor, June 11, 1917. William F. Kruse, Socialist Party, 803 West Madison street, Chicago, Ill. Dear Comrade: I just received your telegram which you sent me in Gerber's name. I am forwarding by registered mail copies of various resolutions which were compiled for the proposed pamphlet. You will note that the manifesto of the National Executive Committee of January, 1917, addressed to the Socialist Party of Europe and printed in the report of the N. E. C. to the St. Louis convention, is not included. It is possible that I failed to discover some resolutions adopted during the last three years. I relied entirely upon the files of the American Socialist and the New York Call.

"The pamphlet will be out within a week and will contain an extensive introduction by Maurice Hillquit. The

various resolutions will also be preceded by introductory remarks. The whole matter will be presented in much better shape than you will find the copies of the resolutions which I am mailing you as they are merely notes from the files of the paper.

"Hoping that the material will be of service to you, I remain, Hastily yours, A. L. TRACHTENBERG."

On page 378, there appears under date of June 14th, 1917, a letter addressed to Mr. A. L. Trachtenberg by the National Secretary of the Y. P. S. L. "June 14, 1917. Mr. A. L. Trachtenberg, care of Rand School of Social Science, 140 East 19th Street, New York, N. Y. Dear Comrade Trachtenberg."

The second paragraph of this letter contains the following:

"I am now working on an article giving the reasons why Socialists claim conscientious objection to military service, which is to make quotations from these resolutions, and that is why Comrade Gerber and I sent you that urgent telegram. Again thanking you for your prompt response and with best wishes for the success of your work, I remain yours for comradeship, National Secretary Young People's Socialist League."

On page 378, letter addressed by one Rudolph Behomek.

Mr. Stedman.—What is the page?

Mr. Wolff.—Page 378, to William F. Kruse:

"Dear Comrade Kruse.—Only to inform you that circumstances forced our late Secretary to resign and I was elected to his place. So please from now on send all the mail to my address, which I am giving in this letter.

I would be very pleased if you could answer my question about which we had a little discussion in our last meeting. Our late secretary joined the medical corps of one of the hospitals from the city. He says he done it to escape the draft and he says that at least he don't have to fight, if he will be with the doctors. Do you think he was right in doing that?

"Some of our members say no and some of them seem indifferent to it. Will you please give me your opinion on that subject?

"Enclosing you will find check for the payment of 100 copies of Liberty edition which you will mail also to my address.

"Hoping to hear from you soon, I remain Your Comrade,

RUDOLPH BEHOMECK,

627 N. Calvert St., Balto., Md."

Is that pronunciation correct?

Mr. Stedman.— I think so.

Mr. Wolff.— There follows the reply of William F. Kruse to this letter.

"Dear Comrade: Your order for 100 copies of the 'Liberty Edition' has been received and entered. The papers will be sent you just as soon as they are out — about July 1st.

"As to the action of comrade Senkyr (whom I suppose you to mean to refer to in your last letter), that is really a matter on which the individual, and not the organization must take the stand. If a man is subject to the draft and has no apparent means of exemption from the tragic compulsion, or attempted compulsion to slay his fellow workers, I cannot blame him if he will turn in any way he possible(y) can to avoid such compulsion.

"We are opposed to war. We do not want to kill our fellow workingmen. The one question then arises (arises) as to how we can best make our feeling known and enforce our principles. Some think it is by refusing absolutely to touch a gun and to rot in prison, or face a firing squad rather than to do so; others feel that while we should not willingly go into the armed force, still if we are drafted they feel that we should go and do our best to spread the light of education among the soldiers. However the case is decided, it must be decided upon the basis of the individual's conscience. If a man's conscience or principles forbade him to register, he would refuse to register; if they forbade him to touch a gun, he will refuse to touch a gun; if they even forbade him to resist the draft, he will resist. As an organization we are opposed to war, but it remains for the individual to say just what form that opposition should be taken. Personally, I can see no difference between the man who takes a gun and

kills his brother man and thereby makes himself a good soldier, and the man who with bandages and instruments patches up another so that he may go back and once more himself become a good soldier. If I had my way, thinking as I do that all war is wrong, I would absolutely abolish the Red Cross and every other humanitarian institution that is used in warfare. I would want to make war so outrageously horrible that no man would ever dare even to suggest fighting another battle. War is absolutely wrong and the only way that we can ever stop it is to get the people enough of it — and then some. Let it be understood that it shall be hell let loose, that no mercy, no justice, no humaneness would have anything to do let loose, that thing to do with the barbarities of the battlefield. That quicker than anything else would awaken the people to the true conditions that we are facing.

“But that is only my personal opinion, understand. The organization, so far as I can see, has no right to throw out a man for joining a hospital unit, and especially in the case of Comrade Senkyr, I think it would be absolutely wrong to do so. However, this is a question that you will have to decide and trusting that you will decide yourselves correctly, I remain yours for comradeship, National Secretary, Young People's Socialist League.”

On page 392, letter addressed to Ernest Leo, 3625 Eighth Ave., N. E., Seattle, Wash.

“Dear Comrade.—Your letter to Comrade Engdahl has been turned over to me for reply and would say that it has not been our experience that Socialist objectors to the war has been ignored by exemption boards. In this city, they file affidavits to the effect that they are members of an organization whose principles forbid its members to engage in war, within the meaning of the selective service act. The boards here either accept the affidavits or throw the object down the stairs — they never ignore them. However, there are hundreds of cases like yours and I am very sorry that we cannot do more to help you.

“Hoping for the best, I remain yours for comradeship, National Secretary, Young People's Socialist League.”

Mr. Conboy.—Where was that letter written from?

Mr. Wolff.—That was written to Ernest Leo at Seattle, dated August 24, 1917.

Mr. Conboy.— At what place?

Mr. Wolff.— That doesn't appear. There follows a letter addressed to J. L. Engdahl, Editor, American Socialist, 803 W. Madison St., Chicago, Ill. This letter was written at 5625 Eighth Ave., N. E. Seattle, Wash., August 15, 1917.

Mr. Stedman.— What is your page?

Mr. Wolff.— Page 393:

“Dear Comrade.— I am a member of the American Socialist Party and the Young People's Socialist League and I thought you might care to know of my case. The Exemption Boards ignore me entirely and I have been informed that I will be court martialed. Yours for Social Democracy. Ernest Leo. P. S. I am Secretary of the Washington Chapter of the Intercollegiate Socialists Society.”

Mr. Wolff.— The letter which I first read appears to be an answer to the letter which I have just read.

The Chairman.— How much have you got?

Mr. Stedman.— Mr. Chairman, I want to —

Mr. Wolff.— There are three more here.

The Chairman.— Well, read the three more.

Mr. Wolff.— Page 411, an article which appeared in the Milwaukee Leader of July 18, 1917, entitled “Another Loan.”

Mr. Stedman.— I may say this in emphasis. The Milwaukee Leader is not owned by the Socialist Party in any way, shape, form or manner.

Mr. Conboy.— It is one of the two daily papers, isn't it?

Mr. Stedman.— The Milwaukee Leader is owned by the trade unionists of Milwaukee and Socialists and stockholders all over the country.

Mr. Conboy.— Mr. Lee testified —

Mr. Stedman.— That it is a Socialist paper. That is true.

Mr. Conboy.— And its proprietor is Victor Berger, isn't it?

Mr. Stedman.— No, Mr. Victor Berger is its editor.

Mr. Conboy.— Editor. I am corrected.

Mr. Wolff.—

"Another Loan. It was originally announced that this was to be a pay-as-you-go war.

"But, for some reason not very hard to seek, that idea seems to have been lost in the shuffle. Naturally, it would not suit the plutocrats to have it financed in that manner. They would have to cough up. And they would not have bushels of bonds with which to rake in unearned sheckels in the future.

"There is now talk of another loan. It is expected that it will be a \$3,000,000,000 one this time.

"Thus the pay-as-you-go idea is to be allowed to continue to be lost in the shuffle, and the war is to be both fought and financed by the poor.

"Or at lease (least) that is the plan.

"But plans do not always work out as intended.

"We realize the futility of expostulating with the powers that be. It is useless to urge them to return to the pay-as-you-go plan.

"We shall therefore content ourselves with quoting to them a plank from the Socialist Party platform, adopted at the recent convention and now being voted upon by the membership. It is short and sweet:

" 'Repudiation of war debts.'

"We believe the sentiment therein expressed will gain very wide popularity as time goes on."

Page 420, there appears in the record a bill for printing 1,000 exemption blanks, a bill addressed to the National Office of the Socialist Party, 803 W. Madison street. There follow the forms of exemption blanks. A portion of the first one at page 421 I will read:

"Serial No.

"Local Board

"1. Affidavit of Person Whose Discharge Is Sought.
State of

County of to wit:

"I, do solemnly swear that I am
..... years old, and reside at
.....
(Street and number, City), town and county or township

or parish)

(Date, Territory or District)

and that Serial Number was given me by the Local Board

(Insert official designation and address of Local Board)

and that claim for my discharge was filed with said Local Board on the day of 191...,

(Day)

(Month)

on the ground that I was a 'member' of a well-recognized religious sect or organization, organized and existing on and before May 18, 1917, with whose then existing principles participation in war is incompatible and that my convictions are against war or participation therein in accordance with the creed or principles of the said well-recognized organization.

"I do solemnly affirm that I am a member in good faith and good standing of the Socialist Party of America, Local Cook County Branch, blank, which on the 18th day of 686 May, 1917, was organized and existing as a well recognized organization whose principles forbade its members to participate in war, and I hereby affirm that this fact entitles me to exemption under the provisions of Section 4 of the Selective Service Law.

"I do further solemnly affirm that said Socialist Party of America has consistently opposed war from the time of its organization as is demonstrated by its official utterances, and that it has consistently opposed this war as is demonstrated by the National Executive Committee proclamation of August 12th, 1914, the proclamation of August 14th, 1914, the manifesto on the Lusitania crisis issued in May, 1915, the peace platform adopted in May, 1915, the U-boat manifesto of April 21st, 1915, and the message to President Wilson, March 30th, 1917; copies of which documents can be furnished for the inspection of this Board. I do further solemnly affirm that the creed and principles of said Socialist Party of America forbid its members to take part in war, and submit as evidence Article II, Section 7, of the National Constitution of the Socialist Party of America, which said Constitution 687 was adopted August 3rd, 1915, and which reads as follows:

"Article II, Section 7.—Any member of the Socialist Party, elected to an office, who shall in any way vote to ap-

propriate moneys for military or naval purposes, or war, shall be expelled from the Party.'

"I do further solemnly affirm that my creed and convictions are absolutely in accord with the principles of said Socialist Party as herein set forth and that I cannot conscientiously become a party to any war.

"I do hereby bind myself to report in person to notify the said Local Board, at once, whenever these conditions, now, entitling me to discharge, cease to exist."

Mr. Wolff.—The bill which was put in evidence was for the printing of one thousand of these blanks and it was a bill addressed to the National Office of the Socialist Party.

Mr. Stedman.—You are not making any contention that that was done by or with the consent of any Socialist organization, are you?

Mr. Wolff.—It was a bill addressed to the National Office of the Socialist Party.

Mr. Stedman.—No. I guess you are mistaken, Mr. Wolff. The conscript league never had any relation to it at all.

Mr. Wolff.—There is the bill addressed to the National Socialist Party, 803 W. Madison Street.

Mr. Stedman.—William F. Kruse.

Mr. Wolff.—Yes. Ordered paid August 18, 1918.

Mr. Stedman.—Yes. William F. Kruse. That didn't go to the National Office.

Mr. Wolff.—It is addressed to —

Mr. Stedman.—803 W. Madison Street. There are a dozen organizations in that building.

Mr. Wolff.—It is addressed to the National Office of the Socialist Party.

Mr. Stedman.—It may have been.

Mr. Wolff.—It was.

Mr. Conboy.—The record shows it is.

Mr. Stedman.—On their bill.

Mr. Conboy.—The bill to the National Socialist Party.

Mr. Wolff.—Page 425, an article from the Milwaukee Leader, on the editorial page, entitled "Abolishing The Presidency."

Mr. Stedman.— What is the page?

Mr. Wolff.— 425.

“It will be a very interesting experiment if, as it has been reported that they may, the Russian people establish a Republic in which there is no President. Now, before they adopt their national constitution, is the time for them to give serious consideration to this and many other questions. We fervently hope that they will not fasten upon themselves such a hobble horse of a constitution as we have in this country.

“They have been doing some close observing and they are well aware that in the United States the President has appallingly dangerous powers. Except that the length of his term of office is limited, he might just as well be an emperor. He has more power than most of the crowned monarchs. We are publishing an article from the Republican dealing with this subject. We have precious little in common with the Republican, but we accept truthful statements from any source.

“The President, for example, can and does plunge the nation into a cruel war against its will. That is, he is allowed to conduct the foreign relations of the nation to suit himself, and, by his mistaken policy, to get the nation into a dilemma that results in war. This is one of the respects in which our nation utterly fails to be a democracy.

“All along the line, the President has too much power.

“His appointive power enables him to build up a gigantic machine. It enables him to hold a club over Senators and members of the House of Representatives, so that, if they want to be in the good graces of the administration and get anything for their districts, they must kow-tow to the President, instead of representing their constituents.

“He also has the power to veto acts passed by Congress. They can only be passed over his veto by a two-thirds vote.

“The President must be shorn of these autocratic powers.

“All this is one of the many things that must be done before we shall have a democracy in this country. It is hard to do so, because of the totally undemocratic manner of amending the Constitution, which is another of the many binding straps with which we are hobbled.

“Certainly, the Presidency will either have to be abolished, or else its overwhelming powers will have to be curtailed and limited to the simple function of the execution

of the laws, before democracy in this country will be anything but a joke.

"Yet, we find the President himself, although clothed with and exercising all these autocratic powers, blandly asserting that we are fighting for democracy.

"Learn, brothers of Russia, learn from us, before it is too late."

Mr. Wolff.—That is all of that. I offer in evidence exemplified copy of the record of conviction in the case of the United States against Victor L. Berger and others, from the record of which I have read.

Mr. Stedman.—Well, I am objecting to it simply not to encumber the record. You have read from the record which shows it.

The Chairman.—It appears on the record that he is objecting to it and the case is on appeal.

Mr. Wolff.—That is all we want to prove, that he was convicted.

Mr. Berger.—Convicted and appealed supersedeas.

The Chairman.—Under what portion was he convicted?

Mr. Stedman.—Under the Espionage act, obstructing the enlisting and recruiting service of the United States.

The Chairman.—That case is on appeal?

Mr. Stedman.—Yes, that is on appeal.

The Chairman.—You want to take up certain matters, certain corrections?

Mr. Stedman.—Yes. The record, on page 1253, this morning, reads as follows: Assemblyman Cuvillier: Mr. Lee, Mr. Dorey is the member of the Socialist party in France who was assassinated by a patriotic man for taking this patriotic stand?" It was so reported. It should be: "Assemblyman Cuvillier: Mr. Lee, Mr. Jaures is the member of the Socialist party in France who was assassinated by a patriotic Frenchman for taking this patriotic stand?" I think "taking this patriotic stand" is a mistake.

Assemblyman Cuvillier.—That is wrong.

Mr. Stedman.—"The Witness.—He was assassinated on July 31st." Then: "Assemblyman Cuvillier: And the man that assassinated him is free today?" It should be "scot free today." "A. Yes." "Mr. Cuvillier: As he ought to be."

Now, another sentence: "As he ought to be" does not appear in this record, and it ought to.

The Chairman.—Correct your record. Is that all tonight?

Mr. Stedman.—That is all.

Mr. Conboy.—Before you adjourn, Mr. Chairman, will you instruct the witnesses who have been subpoenaed to return?

(Discussion off the record regarding adjournment.)

The Chairman.—I think we will gain time by adjourning until 10.30 Tuesday. I am anxious to close this matter as fast as possible.

Mr. Conboy.—You appreciate, Mr. Chairman, that the attorneys called into this matter have virtually had to prepare this case as it was being tried, prepare the case as it went along; and while at times it may appear to have dragged, at the same time, I think you will appreciate that we have been putting in our matter with a considerable degree of promptness.

Mr. Stedman.—Can you indicate how much longer it will take?

The Chairman.—The Chair also wishes to say for the benefit of counsel that we will be prepared to go on Tuesday and continue until Friday night.

Mr. Stedman.—Can you say when you will be finished?

Mr. Conboy.—If you will tell us where we can communicate with you between now and Tuesday morning, we can perhaps give you some indication of how much longer we will take.

Mr. Stedman.—Will you be in New York City?

Mr. Conboy.—I shall.

Mr. Stedman.—With Gilbert E. Roe.

Mr. Conboy.—Have you given that direction to the witnesses.

The Chairman.—Yes, the witnesses are directed to appear at 10.30 Tuesday.

Mr. Stedman.—The replies should be made at the time, I think, as it goes out to the press and carried the wrong impression.

The Chairman.—The Chair suggests — of course, the Chair has no desire to interfere with your order of proof,—but if you can finish Tuesday I wish you would do it.

(Whereupon, at 5.20 P. M., a recess was taken until Tuesday, February 3rd, 1920, at 10.30 o'clock A. M.)

STATE OF NEW YORK — ASSEMBLY CHAMBER

**In the Matter of the Investigation by the Assembly of the State
of New York as to the Qualifications of Louis Waldman,
August Claessens, Samuel A. deWitt, Samuel Orr and Charles
Solomon to Retain Their Seats in Said Body.**

THE CAPITOL,
ALBANY, N. Y., *February 3, 1920*

Present:

Hon. Louis M. Martin,
Hon. George H. Rowe,
Hon. James M. Lown, Jr.,
Hon. Edward A. Everett,
Hon. William A. Pellet,
Hon. Edward J. Wilson,
Hon. Charles M. Harrington,
Hon. Harold E. Blodgett,
Hon. Theodore Stitt,
Hon. Louis A. Cuvillier,
Hon. Maurice Bloch,
Hon. William E. Evans.

Appearances:

For the Judiciary Committee:
Charles D. Newton,
Elon R. Brown,
Henry F. Wolff,
Archibald E. Stevenson,
John B. Stanchfield,
Arthur E. Sutherland,
Samuel A. Berger,
Thomas F. Carmody,
Martin Conboy.

For the Socialists:

Seymour Stedman,
 S. John Block,
 William Karlin,
 Gilbert E. Roe,
 Walter Nelles.

LOUIS M. MARTIN, Chairman

(The Committee met pursuant to adjournment at 10:35 A. M.).

Mr. Stanchfield.— May I proceed?

The Chairman.— Proceed.

Mr. Stanchfield.— Is Assemblyman Trahan here?

Assemblyman Trahan.— Yes.

MITCHELL A. TRAHAN, JR., called as a witness, being duly sworn, testified as follows:

Direct examination by Mr. Stanchfield:

Q. Where do you reside? A. I reside in Yonkers, N. Y.

Q. And are you a member of the Assembly for the year 1920?

A. Yes, sir; I am.

Q. And have you been a member of the Assembly before the current year? A. Yes.

Q. When? A. In 1918.

Q. Did you serve during the whole of the session during 1918?

A. Yes, sir.

Q. And after that date where did you go? A. Why, I resigned from the Legislature and entered the service.

Q. And did you go abroad? A. Yes, sir.

Q. How long were you away? A. About seven months abroad.

Q. So that you were not in the Legislature of 1919? A. No, sir.

Q. Now, do you recall being present during the session of the Legislature of 1918 when a certain resolution by Assemblyman Link was offered for the consideration of that body? A. Yes, I do recall that.

Q. I hand you what purports to be a copy of the resolution of Mr. Link, and ask you whether or no, glancing that through, you are able to say whether that is the resolution so offered? A. Yes, that is.

Mr. Stanchfield.—I offer that in evidence, Mr. Chairman (hands paper to Mr. Stedman).

Mr. Roe.—When it is dated?

Mr. Stedman.—It is dated at the top, in the Assembly, January 30, 1918,—oh, when was it introduced?

Mr. Stanchfield.—It would be the 11th, acted on the 12th.

Mr. Stedman.—It was introduced before February 12, 1918. I object to it as incompetent, and I cannot see that the resolution, not specifically mentioning the assemblyman, has any relation to this matter at all. It is a resolution expressing sympathy and the re-declaration of the principles which Lincoln stood for, or which he thought he stood for, and intends to stand for. I cannot see that there is any connection at all.

Mr. Stanchfield.—Mr. Chairman, one of the contentions urged here is that the Socialist, and some of the five men under investigation, in every way in their power hampered the United States and the State of New York in its war activities, by their votes and by their action, and this is a link in the chain of evidence on that line. It is like the other testimony on that subject.

The Chairman.—I will receive it. (Received and marked Exhibit No. 74.)

Q. Were you present, Mr. Trahan, in the House when the vote was taken? A. Yes, sir; I was.

Q. In what way was the vote taken? A. By a rising vote.

Q. Now, did you notice who refused to rise in the affirmative?

Mr. Stedman.—I want to object to this as incompetent.

The Chairman.—Overruled.

Mr. Stedman.—Exception.

A. Yes, sir.

Q. Who were they? A. The ten Socialist members.

Q. No one of them voting for it? A. No.

Mr. Stanchfield.— That's all.

Cross examination by Mr. Stedman:

Q. How many Socialists were in the Assembly at that time?
A. Ten.

Q. Where were they located with respect to each other? A. Why, to the best of my knowledge, there was eight of them sat in the back row of the House on that side (indicating).

Q. You say to the best of your knowledge; are you in some doubt? A. No, sir, I am not; I am positive.

Q. Then by "to the best of your knowledge" you mean positive? A. Positive.

Q. Where were they located? A. On that side of the House.

Q. Indicating the right hand side as you face the rear of the room? A. Yes, sir.

Q. How many were there? A. Ten of them.

Q. Where were they located? A. On that side of the House (indicating same side).

Q. To see them you had to turn your head? A. Two of them in front of me.

Q. And you had to turn your head to see the others? A. Yes, sir.

Q. And you noticed particularly that every one of them kept their seats? A. Yes, sir; very particularly.

Q. Did you notice the other side of the House at the same time? A. Yes, sir.

Q. You had your eyes on the side of the House across from where you were sitting? A. Not at the same time, I beg your pardon, but while the vote was being counted I did notice the entire House.

Q. Was it a roll call? A. No, sir.

Q. Was the record made of the vote? A. That I couldn't say.

Q. Isn't it a fact that when the gavel sounded for the rising vote of those in favor of the resolution that the members arose; isn't that true? A. Yes, sir.

Q. Then after they were seated was the negative called for?
A. No, sir.

Q. You weren't even counting the number who were voting, were you? A. I didn't attempt to say I was counting.

Q. Did the resolution quote anything from Lincoln that you know of? A. Did it have—

Q. Quotations from Lincoln? A. It did have something in there about the martyred president.

Q. Was there any quotation in there from any of his statements? A. That I couldn't say.

Q. It didn't state he opposed the Mexican War and said that a man who couldn't hear both sides, that he voted against the Mexican War and said that a man who couldn't hear both sides—

Mr. Conboy.—Mr. Stedman, you have stated that Lincoln voted against the Mexican War several times. Have you any proof that Lincoln voted against the Mexican War?

Mr. Stedman.—I am asking him a question.

The Chairman.—Proceed.

Q. Do you know that? A. No, sir.

The Chairman.—Proceed with your case. I do not care to hear discussion.

By Mr. Stedman:

Q. What part of the army service were you in? A. The air service.

Q. Were you an aeronaut? Did you run a machine? A. No, sir. I did not — no, I did not run a machine.

Q. You worked at an airdrome, air station, where they were made? A. I was attached to a Handley-Paige bombing machine.

Q. What is that? A. I was attached to a Handley-Paige bombing machine.

Q. When you say you were attached to the machine — A. I mean, my position on the machine was the releasing of the bombs.

Q. You were in the machine? A. Yes, sir.

Q. And how long were you in the service there? A. I was in the service eleven months.

Q. Who were you traveling with in the machine? What is the name of the officer? A. Slaymaker, Lieutenant Slaymaker.

Q. And you were in his machine traveling with him? A. And 13 other men.

Q. I say, you were with him? A. Yes, sir.

Q. What was your business before you entered the Legislature?

A. I was in the retail grocery and liquor business.

Q. Whereabouts? A. In the city of Yonkers.

Q. How long were you in that business? A. Seven years.

Q. Where were you born? A. In Yonkers.

Q. Do you spell your name Trayar? A. Trahan.

Q. What name is that; that is not an English name? A. Not an English name,—a French name.

Q. Then your parents are French? A. My father was French.

Q. And your mother? A. American.

Mr. Stedman.—That is all.

The Chairman.—Next witness; proceed.

PETER W. COLLINS, called as a witness and sworn, testified as follows:

Direct examination by Mr. Conboy:

Q. Mr. Collins, will you just state your qualifications as a labor man?

Mr. Stedman.—I object to that. Let him state his qualifications generally.

The Chairman.—Yes.

Mr. Conboy.—Well, I am directing his attention particularly to that feature of his qualifications. We will have his other qualifications also.

Mr. Stedman.—All right.

The Witness.—For twenty years I have been a member of the International Brotherhood of Electrical Workers. In 1904 I was elected as business agent of the Boston Local of Electrical Workers. In the same year I was elected delegate to the Massachusetts Federation of Labor, and elected secretary of the legislative committee of that body. In 1905 I was elected president of the Boston Central Labor Union. That same year I was elected—

Mr. Stedman.—What year is that?

The Witness.—1905—that same year I was elected as a delegate from my local union, 103, of Boston, to the convention of the International Brotherhood of Electrical Workers, held at Louisville, in September, 1905. At the convention of the International Brotherhood of Electrical Workers, held at Louisville, I was elected as international secretary of the International Brotherhood of Electrical Workers, and editor of its official journal, "The Electrical Worker." I was elected by my organization as delegate to the convention of the American Federation of Labor, and at that time—beginning 1905, and since that time—have been appointed general organizer of the American Federation of Labor. In 1908, on the removal of our office to Springfield, Ill., from Washington, D. C., which occurred in 1906,—but at

this period in 1908 I was appointed as a member of the Industrial Commission of Illinois, representing labor.

By Mr. Conboy:

Q. By whom were you appointed? A. Charles S. Dineen, the Governor of that State.

Q. You say that your appointment on that Commission was as the representative of labor? A. Of the State Federation of Labor, of Illinois. I served as international secretary until 1912, having attended the conventions of the American Federation of Labor as a delegate. I resigned my position in 1912, as international secretary, for the purpose of combatting socialism among the working people, and in the labor movement. I was on the platform continuously from that period until the present time. During the war I was asked by the Government to become its industrial expert with the United States Shipping Board and Emergency Fleet Corporation, to speed up production, to encourage the men in the factories and the mines and the industries of the country to stand behind the men in the trenches with sufficient production to win the war. At the end of the war, with the signing of the armistice, I represented labor as labor's secretary — labor extension secretary for the League to Enforce Peace; and in March, 1919, I became director-general of the Reconstruction and Employment Service of the Knights of Columbus, for the purpose of establishing a nation-wide series of employment bureaus to put returned soldiers and sailors and marines in jobs, and in that way we have placed over 200,000 men in jobs.

Q. That covers also your connections with the organized labor movement of the United States in this explanation which you have just finished? A. Yes. I still hold the paid-up card in my trade union.

Q. Will you tell us, please, what opportunities you have had to become acquainted with the principles and activities of the Socialist Party of America? A. Well, for nearly twenty years I have come in close contact with the Socialist Party and its representatives. I have attended a number of their National congresses; I have met in debate their official representatives in practically every State in the Union; I have met and known many thousands of them personally; I have read their platform and their official literature during that period, and have lectured in

every State in the Union again and again, giving free opportunity to members of the party and other Socialists to ask whatever questions or participate in the discussion regarding Socialism and its activities against the labor movement.

Q. Can you give us a few of the names of those with whom you have had discussion of the character indicated in your reply to my last question? **A.** Joshua Wanhope, editor of the New York "Call" at that time, or associate editor. I debated with him in Rochester, N. Y. George R. Kirkpatrick — Professor George R. Kirkpatrick, the Socialist candidate for Vice-President on the Socialist Party ticket. Harry Whaton, Socialist professor in the Rand School of Socialism in New York City.

The Witness (addressing Mr. Block).— Did you say that was not so?

Mr. Block.— I object to the witness characterizing any of the individuals. Let him mention the names without characterizing them.

By Mr. Conboy:

Q. Do not call Kirkpatrick a professor or Whaton a professor, whatever they may call themselves. **A.** They designate them in the official publication as such.

Q. That term is very frequently misused. **A.** I hardly agree they were professors, although they call themselves such.

Q. Will you then please go on and tell us the names of some others? **A.** Henry Jaeger, of the Rand School of Socialism, a teacher in the Rand School. Allen Cook, leading representative of the Socialist Party of Ohio, and its delegate to a number of conventions. Tom L. Lewis, of Oregon.

Mr. Stedman.— Who is that?

The Witness.— Lewis, Tom L.

A. (Continuing) Menkin, a candidate for Governor of Texas. The candidate for Congress of the Socialist Party in the Beaumont, Texas, district whose name, just at the present, I cannot recall. William R. Gaylord of Wisconsin, who at that time was the Socialist Senator in the Wisconsin Legislature, and perhaps in set joint debates approximately fifty other leading Socialist Party members who I perhaps may not offhand name just now, and at least 500 others in impromptu debates throughout the country and offering an opportunity from the audience to come on the platform.

Q. I call your attention, Mr. Collins, to the resolution adopted by the Socialist Party of America at their convention in Chicago — A. Pardon me just a moment. May I include Fred Warren, the editor of "Appeal of Reason," and for ten years the lessee also of that publication?

Q. The "Appeal to Reason" was published where? A. Gerard, Kansas.

Q. Had a very large circulation throughout the United States?

A. Approximately 500,000 a week.

Q. Is it published any longer? A. Yes.

Q. Is there anything further you desire to add to your answer before I proceed to the next question? A. I might answer that on my behalf Professor Scott Nearing — is he a professor, may I ask?

Q. We are not concerned with whether he is entitled to that title or not. A. Professor Scott Nearing of the Rand School was challenged on my behalf at Yonkers when he spoke there several weeks ago, perhaps a month, accepted my challenge to a debate on the question, "Resolved, that Socialism is opposed to God, to country and to the labor movement," and then failed to keep his agreement and did not appear.

Q. I was directing your attention to the resolutions adopted by the Socialist Party of America at their convention in Chicago in April, 1917, as follows: "Political organizations and economic organizations are alike necessary in the struggle for working class emancipation. The most harmonious relations ought to exist between the two great forces of the working class movements, the Socialist party and the labor unions." That will be found in the printed record at page 464. Again on page 465, quoting from the same resolutions the following: "In the face of the tremendous powers of the American capitalists and their close industrial and political union, the workers of this country can win their battles only through a strong class consciousness and closely united organization on the economic field, a powerful and militant party on the political field, and by a joint attack of both on the common enemy." I also read to you from the closing paragraphs of the manifesto adopted at the Chicago Convention of the Socialist Party of America on September 4, 1919, which will be found in the printed record at page 306: "To ensure the triumph of socialism in the United States, the bulk of the American workers must be strongly organized politically as Socialists

in constant, clear-cut and aggressive opposition to all parties of the possessing classes. They must be strongly organized in the economic field on broad industrial lines as one powerful and harmonious class organization, co-operating with the Socialist party and ready in an emergency to reinforce the political demands of the working class by industrial action," and ask you if you can tell us, Mr. Collins, what is the meaning of "the proposed organization in the economic field on broad industrial lines," as you have heard it defined and discussed in your experience and study of socialism? A. I would say that from the interpretation by the authorities of socialism, of Marx, Engels, Liebnicht and down to Debs in our own country, that the prime object of the formation of an industrial so-called organization among the workers is for the purpose of capturing the working class machinery, the trade union movement, to use that as the lever or the crow-bar, and by means of mass action and revolutionary action by such mass action, to entirely destroy the existing institutions of society, and the present order of government. I might say that perhaps my thought in that interpretation could be best summed up by quoting the concluding paragraph from the communist manifesto issued by Karl Marx and Frederick Engels in 1848, where they say that communists, using the term communists within the term for socialist — communists everywhere unite with every revolutionary movement for the destruction of the existing order, and by the forcible overthrow of the present order bring about the socialist commonwealth, and in concluding Marx states: "Workers of the world, you have nothing to lose but your chains and a world to gain."

Mr. Stedman.— May I ask if that is the last quotation from the manifesto?

A. Pardon me?

Mr. Stedman.— I am asking the question from counsel.

Mr. Conboy.— I am not the witness.

Mr. Stedman.— I want to know whether the statement, where he concluded with the use of force, and then followed it by the quotation of "working men of the world unite," whether the latter line or two or the preceding one, was that a quotation from Marx?

The Witness.— I don't quite get what you mean.

Mr. Stedman.— The last you quoted was “Workingmen of the World, Unite.” “You have nothing but your chains to lose and the world to gain.” Preceding that you said: “I cannot explain it better than quoting from Marx’s Manifesto,” and then you proceed to make a statement ending with “physical force.” Was that a quotation from the Manifesto?

The Witness.— My recollection as I gave the interpreter was a free interpretation, so far as my recollection went.

Mr. Stedman.— Then you are not attempting to quote the language?

The Witness.— Practically the exact language. I wouldn’t say it was “force.”

Mr. Stedman.— I mean “physical force” particularly.

Mr. Conboy.— The witness is giving his contention.

Mr. Stedman.— Was “physical force” used in the Manifesto? That was the inference given by the witness, and I would like to know whether he pretends to quote that as a quotation and not an inference.

Mr. Conboy.— Proceed.

The Witness.— And I should like to read, although my recollection was in the nature of a free interpretation. I shall be glad to read.

Mr. Conboy.— Suppose you do.

The Witness.— This is the Manifesto issued by Karl Marx, bought by me at the Rand School of Socialism, New York City.

Mr. Stedman.— What page are you reading from?

The Witness.— Page 62. May I first refer to page 61, at the end of page 61: “In short, the Communists everywhere support every revolutionary movement against the existing social and political order of things.” Then down to the last paragraph.—

Mr. Stedman.— This is issued by another organization (indicating a similar booklet).

(Comparison of Mr. Stedman’s booklet with that of the witness.)

Mr. Conboy.— Which is the true gospel?

The Witness.— In making the comparison I simply want to call attention to the fact that this is the official (indicating witness's booklet), by the Socialist publishing house. The copy Mr. Stedman has is by a private publishing firm. This is sold officially by the public; that is sold by the publishing house.

Mr. Stedman.— Well, you are not maintaining there is any difference between the two?

The Witness.— You are the one who raised the question.

The Chairman.— Gentlemen, proceed with this case.

Mr. Stedman.— You are not raising a difference. Both are published by private concerns, too.

The Chairman.— If you have got anything to say, let us hear it.

Mr. Conboy.— All right, Mr. Collins. Proceed now with your reading from the text.

The Witness.— "The Communists disdain to conceal their views and aims. They openly declare that their ends can be obtained only by forcible overthrow of all existing social conditions. Let the ruling classes tremble at a Socialist revolution. The proletarians have nothing to lose but their chains; they have the world to win. Workingmen of all countries, Unite!"

Mr. Conboy.— Will you let us have it marked, Mr. Stedman?

Mr. Stedman.— Do you find the word "Socialist" in that paragraph? You have just used the term. Is the word "Socialist" in the paragraph which you have just read?

The Witness.— No, sir; everyone knows that Communism and Socialism is exactly the same thing.

Mr. Stedman.— I did not ask you that. I was asking the integrity of your reading.

Mr. Conboy.— Have you any objection to having this marked now, and another copy of the same edition submitted later??

Mr. Stedman.— I would without examining it. I am quite willing to examine it if you will permit me for a few minutes.

Mr. Conboy.— Do you want to do that now?

Mr. Stedman.—I would just as soon. I could make an examination very quickly.

By Mr. Conboy:

Q. Do you recall the following from Karl Marx in his work on Capital: "Violence is the obstetrician that —"

Mr. Stedman.—Wait just a second. What book are you reading from, may I ask?

Mr. Conboy.—It is "Bolshevism. Its Cure," by David Goldstein.

Mr. Stedman.—If the Court please, I think it is now getting to be the limit. David Goldstein, once a Socialist, and later disagreeing, and who is a Hebrew in New York, becomes a lecturer against Socialism, and is now a devout Catholic, writes a book against Socialists, and now counsel proposes to read it. This gentleman whose business is to lecture against the movement,—now, what this man knows I assume can be stated, although I do not think it is material whether his interpretation is right or not, except to discount the theory which is contended for, that this is political action as accomplished, and physical force is the real primary element exclusively. I think it is the limit when you take a book and say "Is this the view of Marx?" Let us take Marx's works. I have no objection to reading a few volumes.

Mr. Conboy.—I will defer that until we have a few official copies of "Des Capitale" here.

The Chairman.—My idea was that this witness could throw some light on the Socialist position from the standpoint of his position being connected up with labor organizations, and then give us some information.

Mr. Conboy.—That is just the line upon which we are proceeding with the inquiry. In connection with the comparison of text and the apparent denial on the part of counsel that Karl Marx in his Manifesto advocated revolution by force —

The Chairman.—If there are any explanations that he can give about the text and explain certain passages that will enable us to come to a more enlightened view of the question, all well and good, but I do not think that you should read certain portions of the book.

Mr. Conboy.— I did not intend to do that. I asked him if he remembered that Karl Marx in his work on Capital said this thing, and then counsel objected because I was reading Karl Marx out of somebody else's book. Frequently one author is quoted by another. In view of the objection —

The Witness.— May I be permitted, as long as the word has been called into question, to quote from a national committeeman of the Socialist Party at that time? This is a quotation —

Mr. Stedman.— If you are going to offer it, offer it; then we will read the entire manifesto.

The Witness.— This is not a manifesto. I want to quote an editorial by a member of the National Committee of the Socialist Party to define the exact meaning of what you have just called into question.

Mr. Conboy.— Will you do it and tell us who made it?

Mr. Stedman.— If quoted from a document I will ask that the document be marked.

The Chairman.— Mark the document.

(The document was marked Exhibit 76, of this date.)

The Chairman.— Now hand it to Mr. Stedman.

Mr. Stedman.— I am objecting to reading from the editorial by Samuel Gompers, and from this editorial of Samuel Gompers picking out an excerpt from an article by Victor Berger, published in the "Social Democrat Herald" of July 21, 1909, for the reason that the purported editorial, even as quoted here, is incomplete. It has stars, and the most essential part is completely omitted, where in this editorial Berger specifically advocated an arming of the people and a State militia. It is not even a correct quotation, let alone it is taken from a man —

The Chairman.— Let me see that a minute.

Mr. Conboy.— Let me have it, please.

Mr. Stedman.— May I ask counsel if you now have the copy of the volume I loaned you of the Berger trial?

Mr. Berger.— Yes, here it is.

Mr. Stedman.— You may take it back any moment that you desire it.

Mr. Berger.— Yes, that is all right.

The Chairman.—Your idea is to put in evidence these that you have marked?

Mr. Conboy.—The witness was referring to that as evidence of the testimony he was giving.

The Witness.—Not only with the reference to a member of the National Committee—the counsel did not let me finish—this also mentioned Debs' statement justifying murder.

The Chairman.—I will sustain the objection.

The Witness.—May I put in the original of the "International Socialist Review?"

Mr. Conboy.—That bears upon the answer you have just given?

The Witness.—Yes, sir.

Mr. Stedman.—May I see it if it is marked?

Mr. Conboy.—Yes, sir.

(The paper referred to was marked Exhibit No. 77, of this date.)

Mr. Stedman.—I am objecting to the introduction of this on the ground that it has no application to this case. It purports to be a document in which Samuel Gompers, who originally espoused the cause of the McNamaras, repudiated them immediately after the alleged confession of the plea of guilty of the McNamaras. It is a theoretical statement of the difference between a premeditated killing of an individual with malice and death which results in a labor conflict where that personal malice is absent. I cannot see that it has any bearing upon the qualifications of the Assemblymen here or upon the position of the party, or the purposes or object of the Socialist movement, as to whether a man places a striker whose action results in the death in the same category as a person with personal malice destroys life of another or not.

The Witness.—I simply say it is not by Samuel Gompers.

Mr. Stedman.—You said it was by Debs.

The Witness.—I did not say that.

Mr. Stedman.—You said it was by Debs.

The Witness.— Might I ask the stenographer to read it?

The Chairman.— Debs is the man they are running for president?

The Witness.— Yes.

The Chairman.— You have got to admit that.

Mr. Stedman.— I object to the statement of his running for president. He is not connected up with that.

The Witness.— This is the International Socialist Review.

Mr. Conboy.— What is the International Socialist Review?

The Witness.— It at that period was the leading Socialist monthly of America, the official organ, practically —

Mr. Stedman.— Now, if the Chairman please, I want to say that I do not wish to continue to object; but I want it understood that the statements of this witness, designating this as the official organ, as practically the whole thing, should not be considered as evidence in this case.

The Chairman.— The statements of the witness that this is the official organ, I think probably are his views, and might go out.

The Witness.— On page 399 of the January issue, Mr. Debs, in his article, states: "Under the ethical code of capitalism, the slaying of working men who resist capitalism, is not murder, and as a working man I absolutely refuse to condemn men as murderers under the moral code of the capitalist class for fighting, according to their right, on the side of the working class."

Mr. Conboy.— That has reference particularly to the McNamara case.

Mr. Stedman.— I insist that the entire article be read.

Mr. Stedman.— Supposing we entered into a discussion as to what Mr. Kelly's position should be towards McNamara, both, as far as reports are concerned, being members of the Knights of Columbus? Now, there, evidently it would be incompetent because I might think he would be adverse as against some one who is not to introduce something in this proceeding, except it would be a material difference between individuals on a given state of facts, and how would that affect a man who was elected

as an assemblyman from the Socialist party? It doesn't follow that a person who is a member of that party adopts Mr. Debs' personal views. In fact, in every political party there may be a very clear differentiation on the part of members with each other on the political program of the party, and so forth, and yet they accept the fundamentals. You don't agree on your platform. Democrats don't and Socialists don't. They never are unanimous. How is a man who has some political views to charge that up to the Democrat party, for instance, Mr. Bryan. Would you charge up the views of Mr. Nagle, that he wouldn't abide by the results of a particular election? Neither would the Democrats to-day approve the situation of Mr. Bryan at the present time, nor would the Democrats perhaps, the views of Mr. Wilson.

The Chairman.— I do not see the relevancy of this. Here is a statement made by Mr. Debs —

The Witness.— I have another part to read of that. He didn't let me conclude.

The Chairman.— Here is a statement made by Mr. Debs with relation to a case in California, comparing it with the labor movement. It seems to be a speech or a statement he made. It doesn't seem to be published —

The Witness.— It was published by the party. This is the International Socialist Review.

Mr. Stedman.— No, controlled, published and controlled by a private corporation.

The Witness.— The stockholders of that magazine were members of the party.

Mr. Stedman.— I beg your pardon, they were not. So much for your statement. This I know.

The Chairman.— I will let Mr. Stedman cross-examine and use such portions of the speech as he wants, but I am not going very far into these outside speeches.

By Mr. Conboy:

Q. Is there anything else in that article to which you desire to refer? A. If I might be allowed, Mr. Chairman, my reason for quoting this was because in quoting officially the manifesto of Socialism, my distinguished friend on the left raises the question

that because the term at that time used by Marx "communist manifesto," that necessarily it was not the Socialist manifesto. I, therefore, wanted to bring down the official publications to date to show, and these publications have been circulated as a result of the report made by Morris Hillquit, chairman of the committee on propaganda, to the congress held in Chicago in 1910, and as a result of the circulation by the party officially of this literature, since that period we have been using this literature to show what Socialism is, in keeping with the statement made by the chairman of the committee on propaganda, Mr. Hillquit, to the Chicago congress of 1910, May 15, 1910, in his report.

Q. What was that statement? A. That report was that the party should circulate the literature of Socialism constantly and untiringly as propaganda material.

Mr. Conboy.— Now, if the Chair will permit me, I will go on to the next line of inquiry.

Mr. Stedman.— No, I —

Mr. Conboy.— Do you care to cross-examine on each one separately?

Mr. Stedman.— I think so.

The Chairman.— Very well. There is another article to be read in that speech. I see you have it marked there.

The Witness.— Yes, sir.

The Chairman.— Now, let Mr. Stedman cross-examine as to this article.

By Mr. Stedman:

Q. The Charles H. Kerr Company is a publishing organization? A. It is a group of stockholders composed of Socialists mostly, majority of Socialists, members of the party, holding the stock.

Q. Are you a stockholder? A. I am not.

Q. Have you ever attended a stockholders' meeting? A. I did not.

Q. Have you ever seen a list of the stockholders? A. Yes, I have.

Q. Complete list of the stockholders? A. What purported to be.

Q. Who was secretary in 1912 of that company? A. I couldn't say.

Q. Did you know who was secretary at any time? A. I couldn't state off hand.

Q. Did you know who was treasurer? A. No.

Q. Do you know who was treasurer? A. No.

Q. Where did you ever see a complete list of the stockholders of the company? A. I believe I saw it in one of the issues of the Review, or what purported to be.

Q. Do you think you can find that? A. If I had access to the complete files.

Q. Do you know that Seymour Stedman was secretary of that company at one time? A. I do not, no.

Q. Do you know that Seymour Stedman and Robert Hunter and others have been trying desperately to get a list of the stockholders of that company? A. I do not.

Q. You have never seen any controversy in the papers, or heard of any? A. Not to my knowledge.

Q. You have not read of the fact that the Socialists did try to become stockholders so as to control that company? A. I knew they were stockholders.

Q. Yes, but did you know that the Socialists were trying to get sufficient stock so they could control that company? A. You mean the Socialist Party individually?

Q. Socialist Party members, men and women? A. They were stockholders already.

Q. You have that list? A. I said —

Q. You have seen it? A. To the best of my knowledge.

Q. Could you produce it? A. I cannot say unless I have access to the complete files.

Q. Of the International Socialist Review? A. Of the Kerr Company, and the International Socialist Review.

Q. When you speak of the entire files, you mean the list of stockholders? A. Certainly.

Q. Did you ever see published a list of the stockholders of that company in any magazine, paper, communication or leaflet, so that any person with eyes could read it? A. To the best of my knowledge, yes.

Q. When? A. I cannot say definitely.

Q. Within two years? A. No.

Q. Five years? A. Within ten years.

Q. Do you know that there was a conflict within that company?
 A. I knew there was a conflict among many Socialists who were stockholders of the company.

Q. For control of it? A. I presume it might have been for control; I couldn't say.

Q. Do you know that those who were affiliated with the I. W. W. held control of it and the Socialists endeavored to get it?
 A. No.

Q. You never heard of that? A. Yes, but it was not so. Socialists of good standing were in the control of it.

Q. Socialists who were members of their party were in control of it? A. Yes.

Q. And you swear to that? A. That is the best of my knowledge and belief.

Q. I am not speaking of belief. A. Well, I am speaking of it.

Q. That is your belief? A. My knowledge. I have already stated my knowledge.

Q. What is your knowledge based on? A. On the files of the International Socialist Review and the Kerr Company.

Q. How long will you be here? A. Well, I expect to be in Rochester, N. Y., to-night at 8 o'clock.

Mr. Stedman.— I am going to ask that the witness be held here and I am going to telegraph for numbers for the last ten years.

Mr. Conboy.— He will be back here to-morrow and any other days that it may be necessary.

Mr. Stedman.— I have never seen this information and I would like to get them.

Mr. Conboy.— If there is any way we can facilitate it, we will.

Mr. Stedman.— Very well.

By Mr. Stedman:

Q. You have stated that the Socialist Party recommended the circulation of the International Socialist Review? A. The literature of Socialism, its pamphlets and its newspapers and its publications.

Q. Did they at that time advocate the circulation of the International Socialist Review, subsequent to 1901? A. That I would not say.

Q. They have published a weekly paper known as The American Socialist, have they not? A. I believe they have, yes.

Q. They have published bulletins. From 1912 have you ever seen an ad of Charles H. Kerr in any publication of theirs?

A. Of these two publications?

Q. Of Charles E. Kerr & Company. Did you ever see it in the bulletins, that is, the official organ? A. There were two bulletins; the Bulletins that Germer and other secretaries got out were typewritten.

Q. I mean printed bulletins. A. You did not say that.

Q. I mean typewriting, handwriting, printing, electrotype — any possible method by which a thought is conveyed to another.

A. You said “advertisement.”

Q. I say, did you see any advertisement in a bulletin advertising Charles H. Kerr & Company since 1912? A. That I would —

Q. Have you seen any advertisement in the official organ, “The American Socialist,” advertising Charles H. Kerr & Company?

A. I believe not. I would not say positively, but other publications just as official have carried it.

Q. You have not answered my question, sir. A. Yes, and I have further developed it to your own satisfaction.

Mr. Stedman.— Perhaps you should not flatter yourself. The witness has no right to come back at me. I am respectfully asking questions and he has no right to tender information of an improper character. I will not retort if he acts properly. I want to read this article.

“The McNamara Case and the Labor Movement, by Eugene V. Debs.

“This article is inspired by the report I have just read in a morning paper of a two days’ conference held in Washington by the ‘McNamara Ways and Means Committee of the American Federation of Labor,’ and telling of the cowardly and contemptible action of that body, with Samuel Gompers presiding over it, in denouncing the McNamara brothers and exonerating themselves; and not only this, but ‘expressing the satisfaction of organized labor that the culprits have been commensurately punished for their crime;’ and all of this abject sycophancy to curry favor with the capitalist class.

“It is truly a spectacle to see these national leaders of the American Federation of Labor joining the Otises” —

The Chairman.— Is it your idea to read that into the record ?

Mr. Stedman.— If the excerpt has been read.

The Chairman.— They have not finished it yet.

Mr. Stedman.— He read an article from the paragraph I am now reading from.

The Chairman.— I understand he is going to read some more.

The Witness.— I have a further one.

Mr. Stedman.— Very well. The other is by a man named Bohn.

The Chairman.— Let me see that article.

(Mr. Stedman hands article requested to the Chairman.)

By Mr. Stedman:

Q. I want to ask the witness one question more: Can you name a single branch — local, county, State, and I will include the National organizations — owning any stock in the Kerr Publishing Company? Can you name one? A. The best of my knowledge is that many of the —

Q. Can you name one? A. Not at this time.

Mr. Stedman.— Now, if the Committee please, there is no connection shown between this company and the Socialist Party in any sense by this witness.

The Witness.— I should say yes, that there are.

Mr. Stedman.— I have no doubt you would say either way. Mr. Chairman, you made the statement, a few minutes ago, about a man being Presidential candidate. I submit that that was rather inadvertent. You cannot define a party by the distinguished position which a man occupies. In other words, the statement of a most inconspicuous member legally would be of the same binding force as one who had been most favored by nomination, and I move to strike out the entire testimony.

The Chairman.— Now, you may go back on your record to this statement: "Under the ethical code of capitalism the slaying of workers," and so forth. Now, there is where the case stands now as read by the witness. Everything else is stricken from the record.

Now, if you have anything else in that connection, let us have it read.

Mr. Conboy.—My suggestion was that we proceed with the direct examination.

Mr. Stedman.—Mr. Chairman, that is not according to the rules of the Supreme Court of New York. This man is offering a written document in evidence. A man testified either orally, under oath, to what is in his mind, or a document which speaks for itself is offered in evidence. The fact that he reads it does not change the fact that the document is the thing that speaks, and he is simply acting as a phonograph in reading it. Now, what should be done is this: The document should be offered in evidence and mark the passages they wish, and show it to us, and then when it is offered in evidence we can insist or not insist upon the entire article being read; but to simply pick out a line, a paragraph, an excerpt, from an article containing a thousand or two thousand words, and throwing that in any saying, "You come in and read it at the end of the trial," is not right.

The Chairman.—You do not understand me at all.

Mr. Stedman.—The point I am making, also, is that we have a right to cross-examine always before a written document is produced in evidence.

The Chairman.—The document is received in evidence as far as the so-called statement by Eugene V. Debs is concerned. The witness has read a certain excerpt from that document. Now the witness can read certain other portions of that statement, if he wishes.

Mr. Stedman.—The same article?

The Chairman.—The same article, and then it is turned over to Mr. Stedman for cross-examination.

Mr. Stedman.—I have cross-examined on some of that.

The Chairman.—It has all gone out. You will have to go over it again. Is there anything else you wish to read?

Mr. Stedman.—I would rather let the witness's knowledge as to Charles H. Kerr and so forth stand.

The Chairman.—All right.

Mr. Stedman.—Then that stands. Now, I renew my motion to strike this out on the ground that there is no connection, either by interlocking directors or interlocking stockholders or members of this corporation and the National Socialist Party, the Socialist Party of Illinois, or of the Assemblymen here, shown.

The Chairman.—I will deny the motion. Now you may cross-examine.

Mr. Stedman.—Now, if this is admitted, I will want to read the entire article.

Assemblyman Cuvillier.—That is up to the Chairman.

Mr. Stedman.—You would simply take up time reading at the end, Mr. Cuvillier. (Reading):

“The McNamara Case and the Labor Movement, by Eugene V. Debs.

“This article is inspired by the report I have just read in a morning paper of a two days’ conference held in Washington by the ‘McNamara Ways and Means Committee of the American Federation of Labor,’ and telling of the cowardly and contemptible action of that body, with Samuel Gompers presiding over it, in denouncing the McNamara brothers, and exonerating themselves; and not only this, but ‘expressing the satisfaction of organized labor that the culprits have been commensurately punished for their crime’; and all of this abject sycophancy to curry favor with the capitalist class.

“It is truly a spectacle to see these national leaders of the American Federation of Labor joining the Otises, the Posts, the Parrys, and the Kirbys in savage denunciation of their own union brethren, whose crime consists in their having carried out the policy of Gompers’ craft unionism to its logical conclusion.

“The McNamara brothers, whatever else may be said of them, are at least, in this respect, more decent and self-respecting than their former official associates; their lips are sealed. They have accepted the penalties imposed upon them without a word and they have refused to implicate anyone but themselves.

“The acts to which the McNamaras have confessed and for which they are now in prison I do not approve, nor does

any other Socialist; and such acts would never be committed if it were in our power to prevent them. But realizing as I do, as a working-class brother of the McNamara brothers, after, as well as before their confession and conviction, that there are mitigating circumstances of a vital nature to take into consideration, I absolutely refuse to join in the capitalist clamor and craft union claue of denunciation of these condemned unionists.

"First of all. I am not caring what the capitalist class think of me and I am not tempering my judgment or shaping my acts to meet their favor. I am concerned only with what is right and with what is my duty, and the rest can take care of itself.

"Admitting that the McNamaras are guilty of all they are charged with in the way of dynamiting buildings and bridges, their acts are the logical outcome of the impotency and hopelessness of the craft form of unionism, typified by Samuel Gompers and his official associates in the American Federation of Labor, and of which the condemned men are faithful disciples and loyal devotees.

"The McNamara brothers were not 'Socialist fanatics' and 'unbelievers'; they had no sympathy with industrial unionism, but they were members of the Democratic party, and of the Catholic Church, and of the pure and simple labor union. They were active allies of Gompers in the support of the Democratic ticket, and with their chieftain they believed in 'rewarding their friends and punishing their enemies.'

"And they saw the representatives of pure and simple unionism kicked out of Congress and out of all the state legislatures, year after year, under both Republican and Democratic administrations; they saw their unions paralyzed by court injunctions; they heard the President denounce union men as 'undesirable citizens', deserving of the gibbet; they saw governors calling out the militia and sheriffs swearing in deputies, to shoot union men dead in their tracks for striking against famine and picketing to save their jobs; they saw the Steel Trust crushing one union after another, discharging and blacklisting their members, throwing them into jail and putting human bloodhounds on their tracks to deprive them of employment and literally starve them and their wives and drive their daughters into

prostitution; and understanding little or nothing of the philosophy of the class struggle and of the enlightened methods of working-class warfare, reflected in the class-conscious movement of the workers, based upon the unity, not of the craft but of the entire class, who shall say that these craft unionists, the McNamara brothers, defeated at every turn and threatened from every side by the remorseless power of the trusts and the forces of government, are conscienceless criminals when in such a desperate extremity they resort to the brutal methods of self-preservation which the masters and exploiters of their class have forced upon them?

"As between this blind and cruel extreme and the opposite extreme of abject and cowardly surrender, the former is infinitely preferable; for at least the spirit of resistance to oppression, and the poverty and misery which spring from oppression, keep the hope alive that the horrors of slavery shall not endure forever. But for that spirit the sun of labor, if it ever had one, had long since set in everlasting gloom, and if unfortunately, or tragically as in the present case, that spirit is expressed in blind ferocity and brutal revenge, at least those who are morally responsible by having inculcated the teaching and doctrine which led to crime, should have humanity enough in their hearts to restrain their cruel hands from stoning the victims and rejoicing in their calamity. If they lack the moral fiber to avow their own responsibility and accept it as becomes men they should at least preserve the decency of silence.

"Samuel Gompers and his official associates should be the very last to join the labor-crushing magnates of the trusts and their swarms of mercenary hirelings and condemning the McNamara brothers and expressing satisfaction over their tragic fate. Rather should they weep in anguish that in their moral cravenness they not only deserted their own deluded followers, but jointed their enemies in the cry to crucify them **TO EXCULPATE THEMSELVES**. And here I leave them, the prey of their own remorse, whose keen pangs will torment them in the days to come if their hearts are not dead and their moral sensibilities turned to stone.

"We Socialists are making no apology for any word or deed of ours in the McNamara case, and as for myself personally I shall not denounce them. I condemn the crime, but I pity all the victims, all of them, the McNamaras included.

"Jim McNamara said he did not intend to take life in the blowing up of the Times. I believe him against all the corporation detectives on earth.

"Jim McNamara pleaded to go to the gallows, loaded with infamy, accepting it all to himself, to save the life of his brother. The love and fidelity of these two brothers for each other in the shadow of the gallows put to shame the spirit of those good Christians (?) who now traduce them, and if the Nazarene of twenty centuries ago, who was only crucified for opposing the rich, were here his voice would not be heard mingling with the voices of the Pharisees in the cry for their blood.

"We are not forgetting in this hour of wholesale denunciation that the McNamaras were kidnapped; that an outrageous crime was perpetrated upon them, and we are not unmindful of the fact that their kidnappers have not been and will not be punished, nor of the reason why. We are going to see to it, moreover, that that fact is not forgotten, no matter how long it may be, until that crime against the working class has also been atoned for.

"We Socialists are revolutionists, not murderers; we stand for education and organization, not assassination; and for that very reason we are opposed to capitalism, the prolific breeder of all these revolting crimes.

"Roosevelt, who morally is still in the jungle, says that 'Murder is Murder' in denouncing the McNamaras and congratulating Burns, but murder is not murder when it is for capitalism, and killing is not killing when it is for capitalist profit.

"More than half a million of American wage-slaves, men, women and children, are killed, maimed and lacerated in industry every year, but this is not murder.

"The capitalist owners of the St. Paul mine at Cherry, Ill., buried nearly three hundred miners alive two years ago, some of them surviving for over a week. Compared with this heartbreaking catastrophe the Los Angeles Times

affair pales into insignificance, but this is not murder. The coroner's jury fixed the responsibility upon the capitalists, but they are not guilty of crime.

"The capitalist proprietors of the Bayles mine at Austin, Pa., has deliberately killed their employees in the dam disaster there, according to the coroner's inquest, as if they had placed dynamite under their hovels, but this is not murder, and not one of them will be punished.

"The capitalist mine owners of Pennsylvania had the sheriff and his deputies massacre a body of miners who were marching peaceably along the road near Latimer with an American flag at the head of their procession, but this is not murder.

"Under the ethical code of capitalism the slaving of workingmen who resist capitalism is not murder, and as a working man I absolutely refuse to condemn men as murderers under the moral code of the capitalist class for fighting according to their light on the side of the working class.

"If the McNamara brothers had been corporation detectives and had shot dead twenty-one inoffensive union pickets, instead of placing dynamite under the Los Angeles Times, they would have been protected by the law and hailed by admiring capitalists as heroes.

"I utterly abhor murder, but I have my own ideas as to what constitutes murder. John Brown was an atrocious murderer in the eyes of the slave power, but today he is one of the greatest heroes of history. Sherman blew up and otherwise destroyed all the property within his reach, killed indiscriminately, and spread desolation and despair all the way from Atlanta to the sea, but he was a hero and not a murderer.

"Do the capitalists ever rave and tear their hair over killings committed by them, or their mercenaries, in their interests and for their profit?

"Does an Otis ever howl with rage when workingmen are buried alive or blown to atoms in a mine, through the criminal greed of their capitalist masters?

"It is only when a killing interferes with their piracies is murder. All their tender sensibilities are then aroused and in frenzied concert they cry about 'the law' and invoke all its terrors to glut their merciless vengeance.

"I have not changed my mind but the theory that the dynamiting of the Los Angeles 'Times' was instigated by the capitalists themselves. I am convinced that all these dynamiting crimes had their inspiration in capitalist sources and their genesis in capitalist camps. I have many reasons for this which time and space will not now permit me to fully set forth. I can but suggest a few of these, which to most of the readers of the 'Review' are sufficient in their suggestiveness:

"First, the war of the steel trust on all the iron and steel workers' unions, and the declaration of Morgan that the unions had to be destroyed.

"Second, the fate of the Amalgamated Association, the Lake Seamen's Union, and others which were crushed beneath the iron heel of the trust.

"Third, the joining of these unions by the police spies and detectives of the Steel Trust, such as McManigal, who was permitted to continue his career of crime for three years without being apprehended, and if the whole truth were known it would be found that McManigal, the corporation hireling, who will be cleared, if tried at all, is far more guilty than the McNamaras and led them into crime instead of being their dupe.

"Fourth, the fight between the Erectors' Association and the independent contractors. When the Whisky Trust was organized the war raged fiercely between the trust and the independents and a number of distilleries were blown up with dynamite for the same reason that incited the war of the nightriders in the tobacco growing states of the South.

"Certain it is that Otis and his Merchants and Manufacturers' Association who had sworn to wipe organized labor from the Pacific coast had everything to gain and nothing to lose by the blowing up of the Los Angeles Times, while organized labor had everything to lose and nothing to gain from this and similar outrages.

"But even if Otis and his union-wrecking pals were totally innocent of any direct connection with the crime, it would still be the fruit of their own mad policy and the responsibility for it will finally lodge upon their own heads. The Times explosion was one of the echoes of Otis's declaration of war of extermination, one of the answers, sharp and fatal,

to his tyrannical pronouncement against union labor. It was also an answer, and not the last, to government by injunction, anti-picketing ordinances and other capitalist devices to stay the march of organized labor and keep the workers in bondage. It was likewise an answer to federal court decisions, legalizing the kidnapping and blacklisting of workingmen at the command of their capitalist masters.

"And now a word to those who over their champagne and in sleeping cars and at the clubs and other cozy places, with their stomachs well filled, are demanding that we join them in denouncing the McNamaras 'to rid organized labor of its enemies.' If the McNamaras had really been the enemies of organized labor this gentry would not condemn them and they would not now be in prison.

"But there are some who are conscientious and who really feel that we ought to howl with the capitalist press against the McNamaras 'to clear the skirts of the labor movement,' and to these we want to say that before they are qualified to condemn the McNamaras they must put themselves in their places. The McNamaras were reared as wage-workers in the capitalist system. They were never taught in the delicacy and refinement of things. Life to them has been a struggle in which they and their class have always gotten the worst of it.

"Who of those who are so fierce and relentless in condemning John McNamara would dare to serve as a structural iron worker, suspended in midair on a swinging beam, for a single day?

"It is impossible for those people to know the psychology of a worker who is compelled to risk his life every minute of the day to provide for his wife and loved ones.

"Every skyscraper is built at the sacrifice of an average of one structural worker for every floor in it.

"This worker joins the union to better his condition and he finds that it is a crime to be a union man. His union is attacked, he is discharged, put upon the blacklist and hounded from place to place until he is an outcast and in rags. His little home is broken up, his family is scattered, and possibly the daughter he loved with all his honest heart is in a house of shame.

"Have you, my friend, had these experiences, or any of them? If not, you are not qualified to sit in judgment

upon men who have been driven to these cruel extremities and forced down to these infernal depths as thousands of honest men have been and thousands more will be in the class war that is being waged with increasing bitterness and intensity all over the civilized world.

"The lesson of the McNamara tragedy will not be lost upon the American workers. It will be one more experience added to the many they already have and all of which are necessary to clarify their vision, increase their knowledge and strengthen their determination to put an end to the system in which classes war on each other to death and destruction, and workingmen are imprisoned and hanged for crimes of which they are only the blind and deluded victims.

"In closing I want to express my satisfaction that the lives of the McNamara brothers have been saved. For this neither praise nor censure is due to the capitalist class. The self-confessed dynamiters owe their lives to the Socialist movement. The American Federation of Labor did not save them.

"Had it not been for the menace to the Otises of the impending Socialist political conquest of Los Angeles both the McNamaras would have been sentenced to the gallows. As to this, there is no shadow of doubt.

"There is in this incident food for reflection for those who sneer at political action and decry the political power of the working class.

"If the McNamara case teaches us anything it is that we must organize along both economic and political lines, that we must unite in the same union and fight together, and in the same party and vote together, and stick unflinchingly to that program, growing stronger through defeat as well as victory, until at last the triumphant hosts of labor crown the final class struggle with the glory of emancipation."

The Chairman.—Let me see that just a minute.

Mr. Stedman.—(Hands exhibits to the Chairman).

Q. There was something else in this same publication that you desired to read, Mr. Collins, in connection with the answer which you have given? A. I did, to show that according to an article in that same publication, that the McNamaras were frequent attendants at Socialist meetings, and, to the best of my recollection,

an editorial in the Chicago Daily Socialist admitted that the McNamaras were Socialists, and that this was the result of Socialist teachings. They didn't admit that this was the result of Socialist teachings, they admitted that the McNamara brothers were Socialists.

Q. Now, what is the distinction between the proposed industrial union of Socialism, and the trades union, as adopted by the American Federation of Labor? A. The American Federation of Labor, as a representative of the working people, has of course, absolutely nothing in common with Socialism or its industrial plan. The plan of Socialism, of industrial unionism, is simply mass action to get the workers together for the purpose of using the working people by organization, to do away with the present order, even if necessary by physical force. The trade union movement position is not industrial unionism where the term, industrial unionism, is used with reference to them. It is properly designated as industrial differences. For instance, Socialism or the Socialist proposition of industrial unionism, would be the One Big Union, as Debs states in that article just quoted from. It is one big union of the workers as workers. The trade union aims or industrial plan is that departments of the Federation are organized with men in allied trades. For instance, the metal trades department of the machinists, and the electricians, and the molders — trades having to do with metal working, metal lathers, and so forth, structural iron workers. In the mining department, men about the mines, the different organizations. In the other departments, the Federation organized within the trade union movement, what might be termed industrial departments, and they have absolutely nothing in common with the proposition or Socialist plan of industrial unionism which, in reality, is the disintegrating force of the labor movement.

Q. Is it a fair statement to say that the men who were organized in the various departments as you have referred to them by the American Federation of Labor, are organized for the purpose of bringing about better conditions in connection with their particular trades? A. They are organized, first, as labor unions in affiliation with their internationals, and these internationals comprise the departments that I have just mentioned, and they are organized for the purpose, not only of bettering the economic conditions of the workers, but to enhance the spiritual and moral

conditions of the workers and are organized with the intention of instilling a deep love of our country and its institutions.

Q. What is the difference between trades unions and industrial unions, as you heard that distinction applied by members of the Socialist Party of America? A. In further development of the thought, as just mentioned in the last answer and previous one, the difference is so far apart that they have nothing in common. The trade union movement is a constructive movement. The movement of Socialism is destructive, not only of the present order but of the trade union movement, because, according to Socialism, the trade union movement, as Debs has announced it, is a crime against the working people, and that trade unions are an unmitigated evil against the working class. The reason that Socialism stands against the labor movement is the labor movement believes that capital has its legitimate functions in the advancement and progress of society, and that capital and labor can sit down together around the conference table, and by means of harmony and conference, bring about agreement. These agreements bring about better wages, just wages, better conditions for the workers, shorter hours of labor, better conditions surrounding the home life of the worker. As a result of these agreements which the labor movement makes with capital, men become contented, the workers become contented. Socialism stands against any movement that brings contentment, and therefore it stands against the labor movement, because the labor movement benefits the worker, and protects the worker, protects him economically, spiritually, morally and physically.

Q. What have you observed to be the connection of the socialist party of America and its members with reference to trades unions in this country? A. The object and aim of the socialist party members and other socialists within the trade union movement, have been for two purposes. First, they have paid organizers, paid socialist organizers within the trade union movement for the purpose of destroying the effectiveness and the efficiency of the unions, so that when its efficiency and effectiveness is destroyed, the material is at hand for the making of socialists. They are primarily making to bore from within, so that they may disintegrate the labor movement as a factor for the advancement of the condition of the workers. On the other hand, there are those within the trade union movement who call themselves socialists, but who do not know what socialism really is, and

if they really knew what socialism was actually, the menace it was to the labor movement, they would get away from socialism so fast they would almost be frightened to death for having been connected with it.

Q. What, to your knowledge, Mr. Collins, has actually been done, and is now being done by members of the socialist party of America toward changing the nature and object of trades unions into industrial unions, and their policies as advocated in the platform of the socialist party of America? A. This policy has been carried out and worked from within the trades unions to bring about illegitimate discontent, that is, an unrighteous discontent, to attend meetings of organizations when there is a small number present, to move that unjustified strikes that cannot be won, be called, so that when the strikes are called and are lost because they are in defiance with both the agreement with the employer and the law of the organization, the men losing, the organization having been destroyed, are therefore at hand the material from which socialists are made, and in this respect, for a great many years, the disintegration of trade unionism in this country has been primarily because—not by any great conflict between the unscrupulous employer, and there are many, but by the premeditated and conceived plan of socialism and members of the socialist party and socialists working from within the trades unions to destroy them by what are called strike-breaking and dual organizations of labor.

Q. What has been the effect upon the organized labor movement and upon trades unions affiliated as such in the organized labor movement in America of the interference of the socialist movement in America? A. The effect has been to retard very materially not only the betterment of the conditions of the workers, but to retard very materially the organization of the movement that does come from the working class and represents the labor movement, and at the same time to give in the minds of the public, who do not see beneath the surface, the impression that the labor movement is a destructive movement because it comes in contact nationally with socialists who do get in office in the unions and who use their positions against the best interests of the organization and for the breeding of illegitimate discontent.

Q. Have you heard the term, industrial action, defined by members of the socialist party? A. Yes, very frequently.

Q. What is their definition? A. That industrial action would be the direct action of the workers when the expedient time had arrived for bringing about the revolution.

Q. Are you familiar with the use of the term mass action by members of the socialist party of America as an essential means for accomplishing their objects? A. I am.

Q. What is meant by mass action? A. Mass action would be the solidarity of the workers as workers alone for the purpose of directing that action when the time became expedient, and deemed by the great number as expedient, to destroy the present order of society.

Q. Has the advocacy of mass action become general since the St. Louis convention of the Socialist Party of America? A. The word "general" perhaps to my mind, without exaggerating, would not correctly sum it up. It has perhaps become universal. I have found few socialists since that time who have failed to espouse it.

Q. The doctrine of mass action? A. Yes.

Q. The doctrine of mass action? A. Yes, sir; the doctrine of mass action.

Q. Have the Socialist activity directed against the form of trade unionism advocated by the American Federation of Labor been conducted by labor men?

Mr. Stedman.— I did not hear that.

(The reporter read the question.)

A. Much of it was conducted by the highest officials of the Socialist Party who were not members of the labor movement; much of it was also conducted by these Socialists who were not properly within the Trade Union movement, but had wormed their way in. Men who were not legitimately workers, and some of it was caused by the members of the organizations themselves, but had been misled by the policy and doctrine of Socialism. Perhaps I might prove what I state in regard to the high official of the Socialist Party by quoting in that connection from Eugene V. Debs in his article on page 465, volume 11, No. 8, 1911,— February, 1911, of the International Socialist Review, where he says:—

Mr. Stedman.— I am objecting. If he wants to name officials then he should name the officials he has reference to of his own:

knowledge. If he wants to put in someone else's statement as to particular officials, who are not members of organized labor, who, as he says, are conducting a campaign against craft unionism, I would like to have them mention their names.

The Chairman.—He can mention them.

The Witness.—Eugene V. Debs.

Mr. Conboy.—You did refer to him, perhaps Mr. Stedman was not attending at the time.

Mr. Stedman.—What volume is that?

The Witness.—Volume 11, No. 8, February, 1911.

Mr. Stedman.—And you say Debs is not a member of any labor organization?

The Witness.—He is not a member of the Trade Union movement. This article is entitled "The Crime of Craft Unionism." The term "craft" being trade.

By Mr. Conboy:

Q. That is the term that was just used by Mr. Stedman as being synonymous with trade unionism? A. Yes, sir.

(The article referred to was marked Exhibit No. 78 of this date.)

The Chairman.—Is that another article he wants to read?

Mr. Conboy.—Yes, he wants to read it.

The Chairman.—What is the question back there?

Mr. Conboy.—We were inquiring, Mr. Chairman, if I may state it, rather than have the stenographer read it back, to the part taken in the Socialist Party by the labor men with respect to the industrial program, and the witness had made his statement with regard to the men who did take this active industrial part in the Socialist Party, whether labor men, he stated that they were not.

The Chairman.—Now, go on from there and let us hear what else there is to that.

The Witness.—I wanted to quote from that——

The Chairman.— I do not think I shall admit **this** evidence.

Mr. Conboy.— We have not asked you to admit it, Mr. Chairman. The witness has referred to it in support of the **statement** that he made as being of importance in support of his **testimony**.

The Chairman.— Well, his testimony does not need any **support**.

Mr. Conboy.— If it does not it is **not** necessary that it should be supported.

The Chairman.— Why should he make a statement and then prove it.

Mr. Conboy.— Why should he make a statement and then prove it?

The Chairman.— Yes, he is an expert and testifying. Go on with your case.

Mr. Conboy.— All right, sir. Will the stenographer please read the last statement made by the witness.

(The reporter read as follows: "As much of it was conducted by the highest officials of the Socialist Party who were not members of the Labor movement; much of it was also conducted by **these** Socialists who were not properly within the trade union movement, but had wormed their way in. Men who were not legitimately workers, and some of it was caused by the members of the organizations themselves, but had been misled by the policy and doctrine of Socialism. Perhaps I might prove what I state in regard to the high official of the Socialist Party by quoting in that connection from Eugene V. Debs in his article on page 465, volume 11, No. 8, 1911,— February, 1911, of the International Socialist Review,—")

Mr. Conboy.— Then, going on from there, please,— will you indicate (addressing reporter) that the witness produced the article, the same was marked, but that the Chairman held that it was **not** necessary to read it.

The Chairman.— That is exactly proper.

The Witness.— Their names, do you want?

Mr. Conboy.— You can refer to other people in the same connection, if you desire.

The Witness.— I might mention as to those who were members of organized labor, but also officials,— high officials of the Socialist Party as the National Secretary of the Socialist Party, Adolph Germer, on the sentence and conviction by the United States Government for treason, I believe —

Mr. Stedman.— For what?

The Witness.— For treason, or under the Espionage Act. John M. Collins, of the Machinists, one of the officials of the Socialist Party, and its candidate for many offices, including, I believe, mayor of Chicago and Governor of Illinois.

By Mr. Conboy:

Q. Have you heard representatives of the Socialist Party urge that a revolutionary attitude be adopted by the trade union with respect to instituting commonwealth control by the so-called workers in their own interests as a class in opposition to what they term capitalistic class? A. I have.

Q. What have you heard Socialists say in their public utterances as to the use to be made in the general strike in forcing their demands upon the American people? A. That it was the one real weapon to be used by Socialism for the purpose of arousing the working class to bring about the revolution, and, of course, it has nothing to do with the legitimate aspirations of the workers passing the expression of the labor movement.

Q. Have you heard the Socialists explain the meaning of the—

Mr. Stedman.— What book is he referring to?

The Chairman.— He is giving his own ideas.

The Witness.— I am referring to Socialists I have heard.

The Chairman.— I take it he is testifying as an expert on this line. I am not allowing him to read from books, but giving his own conclusion. The Court will take a recess until two o'clock.

Mr. Stanchfield.— Let me make a suggestion in regard to this: Counsel for the Committee in outlining its procedure for to-day were not aware of the engagement that Mr. Collins had for this evening at Portchester. Now, if you adjourn now it may necessitate an earlier adjournment than five o'clock this afternoon. On the other hand, if you continue perhaps we may finish with the witness and adjourn to a later hour than two o'clock. I make that suggestion simply in the interest of time.

Mr. Conboy.— It will at least conduce to this if we can go on with the witness, then we can put in a full day, when if we cannot go on with him he will have to take the 2:20 train.

Mr. Stedman.— You mean this witness will have to take the 2:20 train?

Mr. Conboy.— Yes, but he will be back tomorrow. You will have plenty of opportunity —

The Chairman.— Oh, well, proceed.

The Witness.— May I say for Mr. Stedman's information the fact that I speak tonight was generally understood by counsel.

Mr. Stedman.— I make the inquiry, Mr. Collins, so as to know when we can cross-examine.

The Witness.— Any time you wish.

Mr. Stedman.— I understand it will be tomorrow.

The Witness.— Tuesday will be —

The Chairman.— Strike that all out of the record. The Committee cannot be burdened with such statements to read over.

By Mr. Conboy:

Q. Have you heard Socialists explain the meaning of the expression "Social Revolution?" A. I have.

Q. Is that phrase heard with any frequency in their programs? A. Very generally.

Q. What have you heard them say with respect to what the Social Revolution is, or is to be? A. May I quote from Debs just a paragraph on that?

Q. You would need to quote?

Mr. Stedman.— I would rather have the witness state his own conclusion, rather than quotations.

Q. Tell us who holds these views? A. All of the men I have debated with, and thousands of others state that the Social Revolution was the necessary means of bringing about the destruction of the present order, and the abolition of the institutions comprising the present order.

Assemblyman Cuvillier.— The present order of government?

The Witness.— The present order of government in its entirety.

By Mr. Conboy:

Q. And what do they say the Social Revolution means? A. Social Revolution means exactly that the present order shall be superseded by what they call collective or social commonwealth for the workers by mass action, and do entirely away with the present order.

Assemblyman Cuvillier.—Which, when you say present order of government, do you mean?

The Witness.—The present government of society, all institutions, family, religion and home.

By Mr. Conboy:

Q. When you refer to the present order you were even more comprehensive than present order of government? A. Yes, sir.

Q. They refer to the present order of government, family, home and labor movements? A. Yes, sir.

By Assemblyman Blodgett:

Q. What do you mean by "mass action?" A. Mass action, as I have already explained, to my Socialist point of view, as I have heard it expressed again and again from those whom I have debated with, and have questioned me in audiences, is that it is the direct action of the workers acting as an entering wedge for the dissolution of the present order of government and society to bring about the social commonwealth.

Q. By violence? A. By physical force, if necessary, when expedient.

By Mr. Conboy:

Q. Are they ever heard—I think what the member of the Committee desires to ascertain—are they ever definite as to when they are going to use physical force? A. There is a difference of opinion among Socialists as to when the expedient time is. There is no difference of opinion that I have ever come in contact with as to the necessity of mass action.

Q. But the question is one of stressing or emphasizing a particular condition? A. Whether it may happen now. For instance, standing in the Rand School, in the lobby of the Rand School, again and again I have heard groups say, the Revolution was right, that now mass action was essential, right now. Again there are others that say, no, it is inexpedient now. People are

not yet educated sufficiently to Socialism. That may be a year, it may be two years, it may be a decade.

By Assemblyman Blodgett:

Q. Do I understand they contemplate the use of violence and force? A. They contemplate the use of violence and force, exactly as in Russia.

By Mr. Conboy:

Q. Did you ever hear any of them repudiate the use of mass action? A. I have never heard a member of the Socialist party, or a Socialist, to my knowledge. I cannot recall them having repudiated mass action.

By Assemblyman Evans:

Q. Does that mass action necessarily mean violence? A. I would say yes, absolutely.

By Assemblyman Pellet:

Q. Why not use the term "violence" instead of the term "mass action?" A. Because I have not been asked to. I have been asked to define mass action as Socialists have argued about it. I understand the term "mass action" and the term "violence" need not necessarily mean the same thing to some, but to Socialism generally mass action means inevitable destruction of the present order inevitably accompanied by violence.

By Mr. Conboy:

Q. Is a general strike mass action? A. Yes, the general strike is a phase of mass action.

Mr. Conboy.— That need not necessarily be violence.

Assemblyman Evans.— May I have the definition of a general strike?

The Witness.— There are two terms that need to be defined in connection with the use of the words "general strike." As far as the labor movement is concerned, there is positively no such a thing as a general strike. The general strike that socialism contemplates for bringing about the collective commonwealth by mass action necessarily implies the use of violence if it is necessary to use violence, for the purpose of bringing that about, although, of course, violence does not always imply general destruction. It might imply some amount of destruction if the thing is accomplished prior to the general violence.

By Mr. Conboy:

Q. It does not necessarily involve a cataclysm? A. No, sir.

Assemblyman Cuvillier.—Mr. Witness, I will ask you this question: I hold in my hand a clipping which reads:

London, January 31.—A Moscow wireless dispatch received here addresses a message to the trade unions:

“‘For all real revolutionaries the Russian trade unions will have special interests, because good or bad, they are practical attempts at socialism. We desire to share our experience with you. We want you to share with us, as only a joint struggle of the proletariat of the whole world, close cooperation in its economic organizations, and a direct struggle for socialism can lead you to final victory.’” Is that your definition?

The Witness.—There is some truth in that, and there is some misstatement in it. In the first place, there is no trade union movement in Russia. The socialists—or rather the Russian Socialists Soviet Federated Republic—absolutely destroyed the trade union movement, and it is treason in Russia for trade unions to exist under the socialist party; but the object of the propaganda that is being instigated in Russia by Lenine and Trotzky, and being paid for by Russian money as well as being paid for by American money, by members of the Socialist party, as well as other socialists, is for the purpose of bringing about mass action of the workers in America for the destruction of the American Republic.

Assemblyman Cuvillier.—That is what I want.

Mr. Conboy — (to Mr. Evans).—Did you get your question answered?

Assemblyman Evans.—The witness said a general strike was not necessarily violence?

The Witness.—I did not fully define it, because I was called off on the other question. I said that the general strike, as applied to the labor movement, did not exist. It is a misnomer. There is no such thing, as far as the labor movement is concerned. The general strike is the weapon of socialism.

Assemblyman Evans.—Just what is it?

The Witness.— The general strike comes as a result of the manufacturing of class hatred in the hearts of the workingman, upon the contention that the workingman must inevitably hate and despise the man for whom he works. That the workingman, hating the man for whom he works, that this bitterness and hatred, must be organized until finally it is organized sufficiently to bring about mass action, and the general strike for the purpose of destroying the present order of government and the institutions of society. That is the general strike.

By Mr. Conboy:

Q. That is, so "general strike" means a strike of all industries at the same time? A. "General strike" would mean, if socialism were successful in bringing it about, it would be absolute stopping of all industries, and the demoralizing of every institution of government.

Q. It would be the complete and utter cessation of labor? A. And the demolition.

By Assemblyman Roe:

Q. Do the Socialist party of Russia, as led by a man such as Lenine and Trotzky, advocate the change of government by social revolution? A. By social revolution.

Q. And that the social revolution was consummated by force and violence? A. Exactly.

Q. So that the present Soviet government over there is practically predicated upon a social revolution by force and violence? A. Yes, and the manufactured discontent within a limited group, because the people of Russia inherently are absolutely opposed to the spirit of despotism that has been thrust upon them.

The Chairman.— Proceed.

By Mr Conboy:

Q. Did you say that the general strike necessarily involved the abolition or destruction of property rights? A. Absolutely, in their entirety.

Q. Have you heard reference made, in connection with these discussions, to the phrase, "world wide" or "international social revolution"? A. I have.

Q. In what connection? A. In connection, for instance, to perpetuate the first social republic in the world, the Russian Soviet Socialist Republic, it would be necessary to back up that republic

by making the revolution universal, because it is felt by the socialists generally that the Bolshevik republic of Russia—the term “bolshevist” and “socialist” being interchangeable and meaning the same thing—that it cannot endure unless the working people of many countries back it up by a revolution in their country; and Lenin, in his appeal to the workingmen, in his several letters printed in authorized socialist publications, has set forth that clearly from the point of view of international socialism.

Q. Have you seen his appeal to the workingmen of America?

A. Yes.

Q. Did you get a copy of that? A. I did.

Q. Where did you get it? A. At the Rand School of Social Science, New York City.

Q. Have you ever heard that it was repudiated by the socialists of the United States? A. It never has been.

Q. Or the Socialist party of America? A. It has been endorsed by their leader, Eugene V. Debs, from the jail.

Q. Now, I call your attention to a number of words from the manifesto of the Chicago platform of September, 1919, as follows: “Long live the International Social Revolution, the only hope of the suffering world,” from page 307 of the printed record. Are you familiar with the use of the term, “class struggle” by the Socialist party of America? A. I am.

Q. What is the significance, or meaning, of that term, “class struggle”? A. The meaning of the term from the point of view of socialism, is that there is an inevitable conflict on the one hand by what I call the proletarians, or the working people—the working classes—and their employers; that this inevitable conflict is inherent, as I mentioned in the prior answer; that the worker must necessarily despise and bitterly hate and work against the employer, against capital, and that finally this class struggle—purely a manufactured class struggle: there is no such a thing as an inherent hatred in the hearts of the workingmen for the employers, unless it has been manufactured—that this class struggle will inevitably bring about the organization of the workers on the basis of the hatred, and mass action for the dissolution by violence of the present order of society.

Q. Is that class struggle which you have just explained endorsed in the party literature of the Socialist party of America?

A. Universally, the world over—international—and in America, too.

Q. Well, the socialists are agreed that it is the triumph of the proletarians in this class struggle that is now seething in Russia?

A. Very much so.

Q. Do you know of any specific instances where the resignation of a member of the Socialist party, elected or appointed to public office, has been demanded by the dues-paying members of the organization of the Socialist party because of the official's refusal to obey the mandates of the dues-paying membership? A. I do.

Q. What instance do you refer to? A. The particular instance that I can recall at this time, apart from others that I know of, is at Lorraine, Ohio. The mayor of the city of Lorraine, Ohio, in keeping with the constitutional provision of the Socialist party, had his resignation in the hands of the Socialist Local before he was elected to that office. He was elected to the office of Mayor of Lorraine, Ohio, and in an official action as Mayor of the city, which he took, the Socialist — he not complying with their wishes in that respect — the Socialist Local sent his resignation as mayor to the city government. He refused to resign and was expelled from the Socialist party.

By Assemblyman Cuvillier:

Q. What year was this? A. I believe that it was in 1913 sometime.

By Mr. Conboy:

Q. He had signed this resignation? A. As all candidates of the Socialist party are required by constitutional enactment.

Q. And his resignation was lodged in the hands of the dues-paying members? A. Of the party.

Q. And he would not act in accordance with their dictates or mandates? A. No.

Q. They thereupon submitted the resignation which they had theretofore received from him to the City Council or some other body of the city government, which, in their judgment, was authorized to pass upon that resignation? A. Yes, sir.

Q. Now, you are familiar with that clause, or rule, of the Constitution of the Socialist party, as contained in the Constitution, demanding that officers elected on the Socialist ticket shall be controlled by the action of the dues-paying members? A. I am, and the reason I am is that it has been followed so closely and there have been so few exceptions to the rule, of Socialist officials, when elected, refusing to abide by that rule, that the exceptions call attention to the uniformity of it.

Q. Have you ever heard any explanation given as to the reason for this requirement? A. Yes. The general explanation is this: That while the Socialist commonwealth is not here yet, every member of the Socialist party feels that representatives elected as Socialists to political office owe allegiance to those who would be representatives under the Socialist Commonwealth if it were in effect, and, therefore, that they should abide by the spirit of the Socialist Commonwealth before it is in effect, and adopt the law of their organization to determine the actions of the public officials, so that he acts as if the Socialist system were in effect in his responsibility to them and not to the people who elect them.

Q. That is, so far as he personally and officially is concerned, the Socialist Commonwealth is in effect? A. Yes.

By the Chairman:

Q. This organization that he files his resignation with could be composed of people entirely alien? A. Yes.

By Assemblyman Cuvillier:

Q. Minors, too? A. Yes.

By the Chairman:

Q. In other words, you would have an elected official, in our form of government, who could be controlled by the aliens? A. You have them today.

Q. We have them now under this system? A. Yes.

Q. Sort of recall—that resignation? A. On the part of the official elected?

Q. Yes, A. I know of no instance where any candidate for office of the Socialist Party ever asked to withdraw his resignation, because if he did he would withdraw from the party.

Q. I mean, is the resignation used as a sort of recall? A. Let me understand you clearly; you mean if the Socialist Local in sending in the resignation—whether it has that effect?

Q. Yes. A. Precisely it has that effect.

By the Chairman:

Q. But it is not by the citizens, it differs from the recall. A recall is the recall by the citizenship but this is a recall by a group? A. Yes, sir; and who might be aliens.

By Assemblyman Blodgett:

Q. Do you know of any such instance as that? A. I don't know of any single instance; do you mean of the recall?

Q. Yes, where there is at this present time a resignation filed or that can be filed against a Socialist who differs with his father. A. I have no access to the official files of the Socialist Party locals, but I would affirm without fear of successful contradiction that in every local of the country where the Socialist movement is what might be termed by Socialists a live movement the resignation of every candidate for office on the Socialist ticket is in the hands of the Socialist Local.

Q. On what do you base that statement? A. On the law of the organization and on the—I might use the term sanctity, although it is inappropriate to use that term—on the sanctity with which they insist on the law of the Socialist Party being lived up to.

Mr. Conboy.—They are orthodox, entirely consistent in their behavior?

The Witness.—Yes, sir.

By Assemblyman Pellet:

Q. Do you know of any instance where such a resignation has been placed on file that would compel a man to give up his place? A. You mean, in other words, do I know of any instance where an elected public official—

Q. Has placed his resignation with the executive committee and they afterwards filed it? A. No.

Mr. Sutherland.—You don't get his question.

The Witness.—I get his question. He asked me if I knew of a single instance where a Socialist elected to office, with his resignation on file with the Party, and his resignation is presented, where he abided by the resignation. I do not, because as I say, the breaking of their own law simply proves how universal the respect for the Socialist law is among the Socialists. The instances have been so few where party members have refused to abide by their resignation, consequently resigned, or were removed from the Socialist organization.

By Assemblyman Evans:

Q. There was no necessity of filing the resignation? A. It was required by their law.

Q. Do you state that as an opinion or as a fact? A. The resignation is kept as a club over them so they can have absolute control over them, or else expel them.

Q. Is that your opinion or do you state that as a fact? A. I state that as a fact.

By Mr. Conboy:

Q. The use of the resignation itself is proof of the violation of some principle or pledge of the Socialist Party? A. It is.

Q. The resignation is not to be used until the man who has given it or who has signed it has himself violated the pledge that he made to his party? A. Either has violated it or is about to violate it.

By Assemblyman Blodgett:

Q. Of your own knowledge do you know that these five Assemblymen ever signed such a resignation? A. I never heard of either one of them in my life before the time of the publicity given to this matter.

Q. I thought you might. A. No, I have no knowledge whatsoever personal to either of the gentlemen concerned.

Mr. Stanchfield.—I would say for the information of the Committee, as its advisor, that the courts of this State have held that the agreement to file it is quite as serious as the filing of it, being an offense against the laws of this State.

Mr. Stedman.—You say that has been held?

Mr. Stanchfield.—Yes.

Mr. Stedman.—May I have the authority?

Mr. Stanchfield.—I will furnish it as we go along.

By Mr. Conboy:

Q. What explanation have you heard, Mr. Collins, in public debate or in addresses made by Socialist speakers as to the reasons why Socialists should endeavor to be elected to positions in legislative bodies? A. Well, there are many reasons that I have heard. The prime reason is that it gives the comrades a feeling that while the collective commonwealth is not yet here, that that is a start for political action towards arousing the interest for accomplishing and bringing about the collective commonwealth. I have heard again other reasons by Socialists, members of the Socialist Party, prior to the Socialist platform, against any political action whatsoever; that political action was purely a fraud because Socialism is not a political doctrine; that Socialism has

a political platform and registers as a political party purely for the purpose of getting followers; that it is not a political doctrine and has only had a political platform and has been a political party for a very few years. That again, it gave an opportunity for officials of the Socialist party to be paid by the government, and they could therefore be at leisure to work for the advancement of Socialism at the expense of the public; that their time would be devoted purely to Socialist propaganda; it would give them that leisure which they otherwise would not have. These are among some of the reasons.

Q. I read to you from the report of the Committee on War and Militarism adopted at the St. Louis Convention of the Socialist Party of America in April, 1917, as follows:

"The Socialist Party of the United States in the present grave crisis solemnly reaffirms its allegiance to the principle of Internationalism and working class solidarity the world over and proclaims its unalterable opposition to the war just declared by the government of the United States."

I also read the following pledge contained in this report:

"1. Continuous, active and public opposition to the war, through demonstrations, mass petitions, and all other means within our power. Unyielding opposition to all proposed legislation for military or industrial conscription. Should such conscription be forced upon the people, we pledge ourselves to continuous efforts for the repeal of such laws and to the support of all mass movements in opposition to conscription. We pledge ourselves to oppose with all our strength any attempt to raise money for payment of war expense by taxing the necessities of life or issuing bonds that will put the burden upon future generations. We demand that the capitalist class, which is responsible for the war, pay its cost. Let those who kindle the fire furnish the fuel."

That is found in the printed record at pages 454 and 455. I also read to you from the demands contained in the party platform adopted at this convention as follows:

"Resistance to compulsory military training and to the conscription of life and labor. Repudiation of war debts."

That is from the printed record, at page 462.

Q. Are you familiar with these provisions of the resolutions and party platforms of the Socialist Party adopted immediately after the declaration of war by the United States? A. I am.

Q. Give us, Mr. Collins, what examples you can recall of acts done by the Socialist Party of America and its members in the furtherance of its various demands and principles laid down in these resolutions and platforms? A. First, if I am not mistaken in hearing that read, the St. Louis Convention adopted and used the term "Mass Action." When that was submitted I believe to a referendum of the Party for its adoption the Secretary of the Party uses the word "mass petition." In response to your request for what information I possess, I would say that that information as a result of the antagonism by party members and the party as expressed in its platform came particularly to my mind, during the course of the war because I was called into the service of the United States Government during the war as an industrial expert. I was engaged in the industrial service for the purpose of speeding up production to help win the war in the industries and the shipyards and factories of the nation, and during that time I spoke at not only these factories, and before various bodies, but in open air meetings for Liberty Bonds and for War Savings Stamps, and other activities of the Government, as well as the voluntary activities of the organizations helping to back up the boys in France. I found a direct antagonism on the part of the Socialists within the industries to increase production or to in any way helping to back up the men who were fighting in France. I found a general and bitter antagonism expressed by the Socialists in the sale of Liberty Bonds and to the other activities that I have just mentioned. This was brought to my attention very frequently in the course of my thousands of miles going back across the country again and again.

Q. Now, will you contrast the attitude of the American Federation of Labor towards the prosecution of the late war with the attitude that you experienced from the members of the Socialist Party? A. I know of no group or body of people in the United States or in the allied countries that demonstrated a more loyal or intense patriotism than the American Federation of Labor and constituent organizations. They not only were heartily with the United States Government from the very beginning, but they appointed committees to help speed up production, to double production and triple production, if possible; to have the workers give their bit for the winning of the conflict by backing up these

men over there through industrial service, and by the approximately 400,000 members of organized labor I would assume conservatively that served in the army and navy of the United States; by the selling of Liberty Bonds, and by the national organizations buying hundreds and hundreds of thousands, running up into the millions of dollars; the appointment of committees in the central bodies of the country for the purpose of going out and selling these Liberty Bonds; by the assignment of speakers acting as sellers for Liberty Bonds and as patriotic speakers to arouse an intense enthusiasm for the cause for which America was fighting, and while I might go on at length in a general statement and emphasize that movement, I could only say, as I reaffirm now, that labor was absolutely loyal, working for America and for our institutions.

Q. Do you know anything at all about the attitude of the Socialist Party toward the administration of the Draft Law?

A. I didn't serve on any Draft Board. What I heard came from various officers of local Draft Boards throughout the country, that in every way they antagonized it.

Q. I take it that was not a matter that came under your personal attention? A. Not as directly as the other matters I have been asked about.

Mr. Cuvillier.— You were interested in it, though, weren't you?

The Witness.— Very much so.

Assemblyman Cuvillier.— Let's have it.

Assemblyman Bloch.— It would only be hearsay testimony.

By Mr. Conboy:

Q. Now, in connection with your contrast of the attitude of the American Federation of Labor and the Socialist Party, I read from the declaration of the American Federation of Labor passed immediately after the declaration of war with Germany, as follows:

"In this solemn hour of our nation's life it is our earnest hope that our Republic may be safeguarded in its unswerving desire for peace, that our people may be spared the horrors and the burdens of the war, that they may have the opportunity to cultivate and develop the arts of peace, human brotherhood and the higher civilization, but despite all our

endeavors and hopes should our country be drawn into the maelstrom of the European conflict, that with these ideals of liberty and justice herein declared as the indispensable basis for national policies, we offer our services to our country in every field of activity to defend, safeguard and preserve the Republic of the United States of America against its enemies, whosoever they may be, and we call upon our fellow workers and our fellow citizens in the holy name of labor, justice, freedom and humanity to devotedly and patriotically give like service."

That is from page 580 of the printed record. I also direct your attention to the report of the proceedings of the **Thirty-eighth Annual Convention of the American Federation of Labor held at St. Paul, Minnesota, in 1918**, during the period of time that we were at war, or in that connection I offer in evidence the proceedings of this Convention, the **Thirty-eighth Annual Convention of the American Federation of Labor**, pages 85 to 87, under the general caption, "Avoid Interruptions of War Production."

Mr. Stedman.—Mr. Chairman, I am objecting to it on the ground that the Socialist Assemblymen here were not in control of the American Federation of Labor at that time and they are in no sense responsible for the contents of the resolution.

The Chairman.—I cannot see how that is important.

Mr. Conboy.—Do you exclude it, Mr. Chairman?

The Chairman.—Yes.

Mr. Conboy.—May it be marked for identification?

The Chairman.—He can state generally what his views are on the question as an expert.

Mr. Conboy.—You will understand, Mr. Chairman, that these are the pronouncements of the American Federation of Labor as indicative of the program of organized labor toward unions in the United States.

The Chairman.—That is true, but I would rather have his expressions of just what they did rather than to read all that in the evidence.

Mr. Stanchfield.—There is another feature to it, if the Chairman will indulge me for a moment. This case is being conducted

as a case rather than as an investigation, and is being tried as we have heard very often, or as has been very frequently stated, at the inception of the proceedings, before the Court of Public Opinion, and the Chair quite properly — I am not at all criticizing it — has extended very wide latitude to counsel representing the five men that are here under investigation. In promulgating through the columns of the public press the doctrines and platforms and the general attitude of the Socialist Party, that party taking the position that it is the party of the working class of the community. Now, we are endeavoring here to show that the American Federation of Labor, through all of its activities, its subsidiaries, is taking a position directly the antithesis of that arrived at by the Socialist Party and is acting in the true interest of labor. Therefore, ought we not to give the public a chance to understand through these channels of publicity, which are quite wide and quite extended, what the attitude is of the American Federation of Labor? If I make clear the point — technically speaking I would raise no question about the propriety of Mr. Stedman's objection if it were in a tribunal of law, but this sets out succinctly and much more forcibly than could the witness the attitude of organized labor upon these questions which are of paramount and tremendous importance at the present time.

Mr. Stedman.—The evidence has taken very wide range, as counsel properly observes, but the fact that it has taken a wide range was not at the request and suggestion of the Assemblymen, but of the Committee and their representatives, and does not, it seems to me, justify putting in evidence here that paper and showing the attitude of the American Federation of Labor upon the war. The next article would be, Mr. Chairman, that the American Federation of Labor opposed conscription; the American Federation of Labor opposed the military training of children in the schools.

The Chairman.—It seems to me, gentlemen, you are going to drift into untold difficulties here. I think a statement from this witness as to the attitude of labor generally would be much more to our liking. The difficulty you are going to get into here is you are going to get part of that book in and then Mr. Stedman will insist on all of it. Then if I don't let him read it he will say I am unfair.

Mr. Stedman.—No, Mr. Chairman.

The Chairman.—Yes, you will.

Mr. Stedman.—I wouldn't say unfair, I would say judicially you were wrong.

The Chairman.—I think the witness is competent to state the attitude of labor. In fact, we know the American Federation of Labor was loyal, but if the witness wants to state it I think it would be more advisable than to get into the dangerous shoals of putting this document into the record.

Mr. Stedman.—The point I make is I do not see how it goes into the qualifications of the Assemblymen.

The Chairman.—You people have a certain element in this case that requires an explanation of the distinction between organized labor and the American Socialist party. I think it is proper to have it distinctly understood here that I think the witness could do it without lumbering up the record with the resolutions. Objection sustained.

Mr. Roe.—May I raise the question that it is now three-quarters of an hour past our lunch time —

Mr. Conboy.—It is for the purpose of expediting these proceedings. I can get just as hungry as my brother Roe.

By Mr. Conboy:

Q. Suppose you take up the attitude, Mr. Collins, of the American Federation of Labor during the war as well as directly after the war, in connection with the prosecution of the war itself, as distinguished from that of the Socialist party of America.

Mr. Roe.—I want to put on the record this objection, that this testimony of the witness as to the attitude of the American Federation of Labor is wholly immaterial and irrelevant here. It has been objected to because it was incompetent. I understand that objection is substantially sustained. Now, if we go into that question we go into the attitude of every other labor organization in the country and there is going to be no end to this proceeding.

The Chairman.—Overruled.

A. In contradistinction to the attitude of the Socialist party and its members in antagonizing every effort of the government for the successful prosecution of the war, the American Federa-

tion of Labor officially at all its conventions not only adopted resolutions endorsing the government of the United States, and heartily pledging its entire support, but it called upon the workmen of the United States to give all their effort to stimulate production, to increase it, to absolutely put aside all matters that might bring about industrial strife or conflict between the employers and the employees in the industry. The American Federation of Labor appointed, in keeping with the representatives of the employers, representing capital and labor, committees to work for the successful prosecution of the war; appointed its representative on various committees of the government, committee on national defense, committee on public information, and other most important committees, and particularly appointed its representatives constituting the War Labor Board, composed of five representatives of labor and five representative employers, with two chairmen, one former President Taft and one former chairman of the Industrial Commission, Mr. Walsh, and his successor afterwards, Mr. Manley, for the purpose of minimizing in particular and obviating any chance of disturbance of industry by differences between the manufacturers — the employers and the employees, and as a result of this work of the American Federation of Labor, production was tremendously stimulated and carried on to such an extent that in this respect the workers are deserving of the very greatest credit, the labor movement of the American Federation of Labor, the only labor movement in America, deserving of the heartiest commendation, and has it from the American people.

By Assemblyman Cuvillier:

Q. Didn't the War Department issue to the various labor organizations certificates of merit? A. Oh, yes, many organizations, as well as individuals.

Q. That is, who are members of — A. Organized labor. Receive certificates of various kind.

Q. And gas plants and shipyards, and all those? A. It was my privilege personally, although not within my province or jurisdiction, to be called to aid in the settlement of many industrial disputes that stopped, in a number of instances, fifteen or twenty thousand workers in steel and electrical industries from going out.

Q. But you never heard of the War Department issuing certificates of merit to the Socialist Labor Party? A. Not the Socialist Labor Party.

Q. Or the Socialist party? A. I do not know of any, but there may have been some Socialists in the War Department that issued them himself.

Assemblyman Evans.—I would like ask one question.

Mr. Stanchfield.—I suggest we take an adjournment, and I say the witness, for Mr. Stedman's information, will return to-morrow.

By Assemblyman Evans:

Q. Is the clothing trade of New York City affiliated with the American Federation of Labor? A. It is not affiliated with the American Federation of Labor. The United Garment Workers are. It is a dual organization fighting the American Federation of Labor, and fighting it as part of the class conscious organization of Socialism by mass action to help to bring about the so-called Socialist commonwealth.

Assemblyman Cuvillier.—They publish a paper called "Justice" or something like that.

Mr. Stedman.—But the amalgamated contributed a hundred thousand dollars to the steel workers, didn't they?

The Witness.—Yes, but they collected five hundred thousand dollars from others who could not afford to contribute, and they made four hundred thousand dollars.

Mr. Stedman.—I am not asking you that.

The Chairman.—You will have plenty of opportunity tomorrow to argue that.

Mr. Stanchfield.—What hour will we reconvene?

The Chairman.—Three o'clock.

Mr. Stanchfield.—Will you make the direction to the witness to come back?

The Chairman.—Mr. Collins, you will be back tomorrow.

(Whereupon, at 1:25 P. M., the Committee recessed until 3 o'clock P. M.)

AFTERNOON SESSION, 3:05 P. M.

The Chairman.—If you are ready, proceed.

Mr. Stanchfield.—Mr. Chairman, there is a witness whose testimony we are desirous of securing, who resides in Milwaukee, and our information from him is that owing to the illness of his wife, which is serious, he is disinclined to leave her. We have no power, by process, even had we the disposition to compel him to be here, and I would like to make arrangements to take his testimony by commission. I will take it up, or have some one take it up, with anyone that Mr. Stedman designates for the purpose.

Mr. Stedman.—Who is the witness?

Mr. Stanchfield.—His name will have to be given you. I am not at the moment cognizant of his name or his address, but all of that of course we will furnish you.

Mr. Stedman.—We will take that up.

The Chairman.—Very well.

Mr. Stanchfield.—Is Miss Schivers in the room?

(No response.)

Mr. Sutherland.—Inspector McElroy.

The Chairman.—Has this witness been sworn?

Mr. Sutherland.—No.

SAMUEL A. McELROY, called as a witness, being duly sworn, testified as follows:

Direct Examination by Mr. Sutherland:

Q. Inspector, where do you reside? A. 2801 Avenue N, Brooklyn, New York.

Q. How long have you lived there? A. About six months.

Q. Do you sustain some relation to the Police Department of New York City? A. Inspector of Police.

Q. How long have you occupied that position? A. A little over five years.

Q. Do you know Assemblyman-elect Solomon? A. I do.

Q. How long have you known him? A. About a period of three years.

Q. I call your attention to an occurrence, or an occasion, rather, down in Brooklyn, when there was some labor disturbance on the street car lines. Did you see Mr. Solomon on that occasion?

Mr. Stedman.—Pardon me, can you fix the date?

Mr. Sutherland.—I would like to have the inspector do that.

The Witness.—About one P.M., August 6th.

By Mr. Sutherland:

Q. What year? A. 1919.

Q. State generally what was the nature of the trouble and how extensive it was? A. That day there was supposed to be a street car strike start at four o'clock in the morning, and the men all reported for work and went out on the cars. About one P.M., while on patrol, in company with Lieut. Ahlers and Eggerts, in an automobile, we reached the intersection of East New York avenue, St. Johns Place and Saratoga Avenue, and we found about two thousand people assembled there, and there were large pieces of asphalt on the westbound track, also a number of stones. We got out of the automobile and told the people we were police, put our shields on our coats, and started to take these obstructions from the track; and as we did so a number of stones were thrown at us by the crowd of people.

Mr. Stedman.—I want to object to this as incompetent and immaterial.

The Chairman.—If Mr. Solomon was there, he may continue.

Mr. Sutherland.—We want to show the participation of Mr. Solomon in the event.

The Witness.—At that time a west bound car came along and the motorman got out and helped us remove the obstructions, and just about the time we had the obstructions removed from the track, I noticed a boy attempting to put a piece of asphalt under the front wheel of the rear truck. I got hold of the boy, who was about 14 years old, and handed him over to Lieutenant Ahlers and said, "Put that boy in the automobile for the present;" and as he started for the automobile he was surrounded by a crowd of men, who attempted to take the boy away.

Mr. Stedman.—I object to his conclusions. State what they did.

The Chairman.—State what they did.

Mr. Sutherland.—What did they do in making that attempt?

The Witness.—They struck the lieutenant, got the boy, and did everything they possibly could to aid the escape of the boy.

Mr. Stedman.—I ask that that be stricken out, “everything they possibly could.”

The Chairman.—That may go out.

Q. How many people were making this attempt upon the officer?

A. Around that particular time, at least that particular place, there must have been at least 30 or 40. I went to the assistance of the Lieutenant, drew my billy and succeeded in driving the people away. In the meantime the boy escaped and the windshield of our automobile was smashed, a number of stones were thrown into the body of the auto, and about that time, when the trouble had partly subsided, I heard a voice saying, “Pull the scabs off the car.” I turned around and I saw Assemblyman Solomon. He again repeated, “Pull the scabs off the car; why don’t you pull the scabs off the car; why don’t you assault them?” I said, “Assemblyman, you are a lawmaker, an officer of this State. Instead of assisting me to restore order, you are interfering with me, encouraging this disorderly mob in violating the law. I now advise you to go on and mind your own business,” and with that the Assemblyman made his exit through the crowd and the last I saw of him he was standing about 25 or 30 feet away from the front of the crowd on the sidewalk.

Q. How long did the disorder last after that? A. About ten or fifteen minutes, until the reserves arrived.

Q. Who was with you on that occasion, Inspector? A. Lieutenant Ahlers and Lieutenant Eggers.

Q. Either of them here? A. Lieutenant Ahlers is here, sir.

Q. Have you something in mind about the red flag incident that was mentioned by someone here? A. On Thursday, May 1st, the Socialists in Brownsville, Brooklyn, had a parade. Before that parade started I sent word around to the Brownsville Labor Lyceum by Sergeant Riley, calling their attention to the ordinance in reference to the red flag. Sergeant Riley told me he saw Assemblyman Solomon and the Marshall.

Mr. Stedman.— It seems to me that is pretty nearly the limit.

Mr. Sutherland.— We won't ask him to state what ~~someone~~ told him about Mr. Solomon.

Q. Who is the gentleman that will have first hand information about what Mr. Solomon did? A. I have it myself. I am coming to that, counsellor.

Q. Well —

The Chairman.— Proceed.

A. Sergeant Riley informed me —

Mr. Stedman.— That is objected to.

Mr. Sutherland.— That is objected to, Inspector.

Q. Will you take that as introductory, Mr. Chairman?

The Chairman.— Well,—

Mr. Stedman.— I think he can state what he saw.

The Witness.— When I reached the location where the parade was forming I saw a number of red banners and red flags in the street. Just then Sergeant Riley came up. "Inspector," he says, "I want to see you to see what action I will take in reference to these red flags and red banners." I immediately asked for the Marshall, Dr. Sadoff, and called his attention to the ordinance in reference to the red flag.

Mr. Stedman.— Now, I object to that. Let him state what was said.

The Witness.— I told him it was a violation of law regarding the having of red flags and red banners.

Mr. Stedman.— Do I recall that Dr. Sadoff is a defendant here?

The Chairman.— He is part of the crowd and was there.

Q. Do you know whether he belonged to the Socialist party of America? A. Yes, sir.

Q. What knowledge have you on that point, Mr. Inspector? A. He was Marshall of the Socialist parade that day.

Q. It was the 1st of May of what year? A. 1919.

Q. Was this doctor a campaign manager at one time in one of the Socialist political campaigns? A. I cannot say; I do not know.

Q. I had that impression. Well, go ahead, Inspector, with your story. A. I called the doctor's attention or the Marshall's attention to the violation of law. He immediately called Assemblyman Solomon over to where I was standing, and he said, "The inspector says it is a violation of law to have these red banners and red flags in the street." The Assemblyman said, "The law is not constitutional, Inspector. I want to make a test case of it. I want you to make one arrest and test the law." I says, "Assemblyman, I want all these red banners and red flags off the street or you won't have any parade, and if I start in to make any arrests, I will arrest every man that has a red banner or red flag in his possession. I will give you a few minutes to think it over." Assemblyman Solomon then conferred with Dr. Sadoff and came back and told me that they decided to take the red banners and red flags off the street and the parade and procession proceeded.

Mr. Sutherland.—You may cross-examine.

Cross-examination by Mr. Stedman:

Q. And they did obey the law, didn't they? A. Yes, sir.

Q. You were opposed to them wearing red? A. I do not quite get that question.

Q. Did you oppose persons in the procession wearing red colors? A. No, I won't say that I was.

Q. What time did this parade start? A. Some time in the neighborhood of 2 p. m. on May 1st.

Q. No assaults were committed by any of the participants in the parade, were there? A. No, sir.

Q. They were peaceable? A. Yes, sir.

Q. Your objection to it was then because they were carrying red banners? A. Because they were violating the law.

Q. Which constituted in their carrying red banners? A. And red flags.

Q. You have been an Inspector a long time, haven't you? A. Five years or more.

Q. There has been May Day parades on the 1st of May every year? A. Yes, sir.

Q. And they have carried red banners? A. Prior to 1919 they did. I might say December, 1918.

Q. Prior to that time they carried them? A. They did, yes.

Q. You personally didn't have any objection to it? A. I certainly did.

Q. You had a prejudice against the color red? A. Only so far as it was a violation of law.

Q. I say personally you had none? A. Where it violated the law, yes.

Q. You were speaking of the strike; that is the Brooklyn Rapid Transit strike, isn't it? A. Yes.

Q. And there had been some negotiations between the men who worked for the company and the company and it resulted in strike? A. That particular day, to the best of my knowledge, the strike had not taken place.

Q. Took place that morning? A. It was supposed to have taken place that morning, but the men reported for work.

Q. Were there any non-union men on the cars? A. No, sir.

Q. You are certain there were none? A. Not at that time, no, sir.

Q. Then, as a matter of fact, there was no strike at the time you went down in this location? A. Except that there was a report of a strike.

Q. But there really was no strike at that time? A. I wouldn't say there was; the men were at work, the regular men.

Q. Did you announce to the audience there and the persons when they referred to strikebreakers on the cars that there was no strike in progress? A. They didn't, they didn't say anything about strikebreakers outside of Assemblyman Solomon calling them scabs.

Q. That is a strikebreaker, isn't it? A. Yes, sir.

Q. A strikebreaker is a person who takes the position of a person on strike no matter by what name you call him? A. Yes, sir.

Q. You had a dozen officers with you? A. No, sir; I only had two lieutenants at that particular time.

Q. Were there other officers there? A. No, sir.

Q. Narrow street? A. No, sir; it is quite a large street. There is a square there, the intersection of a number of streets.

Q. How wide? A. I should judge 150 feet in length and perhaps 80 feet in width.

Q. What time of day? A. About 1 p. m.

Q. Near a theatre? A. Yes, sir, the Palace Theatre.

Q. Were there large crowds around there? A. Not at that particular time.

Q. At the time that these stones were being thrown, there was not a large crowd? A. Yes, sir, there was.

Q. A very large crowd, was there not? A. Pardon me. When I say "that particular time," I have reference to the theatre, the people perhaps going into the theatre.

Q. There were people in the street? A. Yes.

Q. How many people would you say were there? A. About 3,000.

Q. And they were banked up rather thickly to where you were standing? A. Yes, away to the railroad tracks.

Q. How far was the edge of the crowd from you? A. I should say about five feet.

Q. How far was Solomon from the edge of the crowd? A. Well, when I first saw Solomon he was at the edge of the crowd, right alongside of me to the right.

Q. And he was close to you? A. Yes.

Q. Did you have hold of any one? A. No, sir, not at that time.

Q. Immediately after? A. Yes, I did have hold of a party after that.

Q. You had hold of them with your left hand? A. Yes, sir.

Q. And you had your club in your right? A. Yes, sir.

Q. And you hit him with your club? A. No.

Q. Tapped him? A. No.

Q. Did you arrest him? A. No, sir.

Q. Did you shake him? A. No, sir.

Q. You just took hold of him, grabbed him and let go; is that it? A. No. I would like to have you understand this: I assisted and rescued my lieutenant while he was being assaulted, during the time he was being assaulted.

Q. I would rather have you answer my question, if you will?

The Chairman.—Go on with the examination.

Q. Did you take hold of him? A. Take hold of who?

Q. A man there? A. I took hold of a number of men.

Q. And did you pull them down or up or around? A. I pulled them away and around and knocked them right and left away from the lieutenant.

Q. Knocked them right and left away from the lieutenant? A. Yes.

Q. It was at that time, then, that you heard the voice, was it not? A. Shortly after that.

Q. And it was Solomon's voice? A. Yes.

Q. When you began knocking them right and left, you heard Solomon say: "Officer, you should not beat up those men"? A. No, I did not hear him say any such thing.

Q. You did not hear him say that? A. No.

Q. Is your hearing good? A. Pretty fair.

Q. Did he say anything with reference to your beating the persons or knocking them right or left? A. He says, "Why don't you pull the scabs off the car? Why don't you assault them?"

Q. "Why don't you assault them?" A. Yes, sir.

Q. He was referring to your assault — I withdraw that. Did he say anything about you assaulting the men you were assaulting at the time he spoke? A. He did not.

Q. He just said, "Why don't you assault the men on the cars?" A. Referring to the scabs.

Q. Instead of the men you were assaulting? A. Yes.

Q. And then in the midst of this audience, were there yells at the time? A. Yes, there was quite a little yelling.

Q. More or less catcalls? A. Well, I wouldn't say they were catcalls; they were almost anything. They were saying any and everything.

Q. They were saying sort of a medley? A. You might term it that way.

Q. Different ones saying different things? A. Yes, sir.

Q. Provoking the police — I mean the remarks were provocative — provoking? A. No, sir, I wouldn't say they were.

Q. They were not encouraging? A. No, you are never encouraged by the crowd.

Q. You do not, as a rule, receive encouragement during strikes from the crowd? Usually the crowds are with the strikers? A. Especially the crowds in that neighborhood, that were around at that particular time. I did not look for it.

Q. That is a working class neighborhood? A. Well —

Q. There is a different population there than up on Riverside Drive? A. Yes, somewhat.

Q. And the comments would be different? A. Yes, sir.

Q. You never saw a crowd of Riverside Drive people out on the street, did you, in a strike? A. No, sir.

Q. They stay in? A. I don't know.

Q. In the midst of all this conversation and remarks that were made there, there was some confusion? A. Yes, sir.

Q. How many men did you assault? A. I don't know. It might have been at that time the men between me and the lieutenant, might have been anyway between ten to twenty or maybe more.

Q. And then after these parties were assaulted, were they put in the wagon, the patrol? A. No, sir.

Q. They were dispersed? A. They were dispersed.

Q. They ran away? A. They got out of the way.

Q. They moved? A. Yes, sir.

Q. At which time during the period of chastisement was it when you told Solomon that, as a lawmaker, he should not have suggested taking men off the car? A. Just about the time I started in rescuing the lieutenant and driving the people away from where the lieutenant was standing at the automobile.

Q. Did you say to him, "You ought to keep the law as an Assemblyman?" A. Not in that manner.

Q. In what manner? A. I said, "You are a lawmaker, and an officer of this State. Instead of assisting me to restore order, you are interfering with me and encouraging this disorderly mob in violating the law."

Q. Did he reply to you that you had no right to billy the men who were in the parade? A. Now, you are talking about a parade; do you mean that?

Q. Crowd. A. The last word he said to me was, "Why don't you pull the scabs off the car?"

Q. That was the last; now give us the first. A. The first word he said, as I turned around, was "Pull the scabs off the car."

Q. That was the first and the last then, was it? A. No.

Q. Then the words in the middle. A. "Why don't you pull the scabs off the car; why don't you assault them?" was the last words he said.

Q. And he never said anything to you about assaulting those you were assaulting? A. No, sir; when I got close enough to him he got away.

Q. He moved? A. Yes, sir.

Q. Didn't Solomon say to you this: "You are in charge of the law, why do you violate it?" A. He did not.

Q. Or, "Why are you assaulting those people?" A. No, sir.

Q. Nothing of that kind? A. No, sir.

Q. Whom have you talked over with about this case — this affair? A. Mr. Berger, I believe, is the first party that I spoke to about it.

Q. When was this? A. About two weeks ago last Sunday in the St. George Hotel, New York.

Q. Did you meet at the St. George to talk over this case? A. I was sent for to report that.

Q. Is that the Prince George? A. The Prince George, at least.

Q. What time did you go there? A. I judge about eleven o'clock in the morning.

Q. Anyone go with you? A. Lieutenant Ahlers.

Q. Anyone else? A. No, sir.

Q. Was Lieutenant Ahlers with you on this day? A. Yes, sir.

Q. Do you know what you were going there to tell about? A. Yes, sir.

Q. You were informed over the phone? A. I was told by the chief inspector that I was wanted by the Attorney-General in reference to some trouble that I had with Assemblyman Solomon during the railroad strike in Brooklyn.

Q. Was he with you on that day? A. No, sir; I got that message over the telephone.

Q. Do you know how he knew that you had trouble with Solomon? A. No, sir.

Q. Do you know how anyone knew it? A. Yes, I made a report of it.

Q. Was Solomon arrested at any time as a result of it? A. No, sir.

Q. Any charge made against him at that time? A. No, sir.

Q. You made a written report? A. I did.

Q. To whom? A. To the Borough Inspector of Brooklyn and Queens.

Q. And he called you up and asked you to meet the Attorney-General and report? A. No, sir; the chief inspector called me up in reference to that.

Q. Have you that written report with you? A. Yes, sir.

Q. May I see it? A. (Witness produces paper.)

Q. Was this in the heart of Solomon's district? A. Well, it is in the most crowded part of where the Socialists predominate.

Q. You had trouble in different parts, did you not? A. No, the most trouble was right there, not only at that time but during the whole day.

Q. Do you recall when you made your report? A. On August sixth, shortly after the occurrence — same afternoon.

Q. Do you know who this boy was? A. No, sir.

Q. You had an automobile there, did you? A. Yes, sir.

Q. You went down there anyway? A. Yes, sir.

Q. You told him to go on and mind his own business, did you?

A. Yes, sir.

Q. Why did you tell him that? A. Well, I wanted to make him do it — see that he did it.

Q. Did Mr. Solomon say anything to the crowd? A. He addressed the crowd, "Pull the scabs off the car."

Q. Did he say anything else?

A. "Pull the scabs off the car," is all I heard.

Q. You were not listening particularly to what he was saying?

A. I was, yes, the second time. The first time I did not know it was Mr. Solomon until I turned around, because the voice was right alongside of me; then I recognized Mr. Solomon and he continued to talk.

Q. Did Mr. Solomon say anything to the crowd about dispersing? A. No, sir.

Q. How long did he remain there? A. I had Mr. Solomon in view for perhaps about the time it took him to go from the edge of the crowd over to the sidewalk. It might have been a period of two or three minutes.

Mr. Stedman.—That is all.

Mr. Sutherland.—Now, I have not seen this report, but I offer it in evidence.

The Chairman.—Mark it; it is received.

Mr. Stedman.—That is objected to as incompetent for a man to give testimony and then to take his written statement to back up his oral statement.

Mr. Sutherland.—You wanted to know whether this is a cooked up story or not.

The Chairman.—Wait a moment.

Mr. Stedman.—My proposition is this: it is really trivial in a sense, but when a man testifies, it is incompetent for him then to introduce a written statement which he has made as corroborative evidence. Otherwise he might run a printing press and put it in continuously.

The Chairman.—It could not be made competent if you had not made it so.

Assemblyman Cuvillier.—That's it.

The Chairman.—No, I want to be fair about it. Mr. Stedman took up the report and examined the witness on it. Therefore, it is entitled to go in evidence. The objection is overruled.

Mr. Stedman.—I object to it. I hope it is not done according to any rules of evidence.

The Chairman.—It is done under the practice of the courts.

(The report referred to was marked Exhibit 79 of this date and reads as follows:)

Mr. Sutherland.—(Reading):

POLICE DEPARTMENT—CITY OF NEW YORK—11TH
INSPECTION DISTRICT.

BROOKLYN, August 6th, 1919.

The Borough Inspector, Brooklyn and Queens.

SIR.—About 1.00 this P.M., while patrolling in an automobile in the vicinity of Douglass street and East New York avenue, Brooklyn—85th Precinct—in company with Lieutenant Adolph E. Ahlers of the 11th Inspection District and Lieutenant in Command William J. Eggers of the 87th Precinct, we found about 2,000 persons—men, women and children—assembled at this location, some of whom had previously placed large pieces of asphalt and stones on the railroad tracks in order to prevent the trolley cars from running on same.

We alighted from the automobile, informed the people that we were policemen and started to remove the obstructions from the tracks. At this time a west bound car came along and the motorman of same also left the car and assisted us in removing said obstructions from the tracks. There were a number of stones thrown at the motorman, myself and Lieutenants Ahlers and Eggers, some of which struck us.

I then took hold of an unknown boy about 14 years of age whom I observed placing obstructions on the track after they were removed and directed Lieutenant Ahlers to put him in the automobile. The automobile was then immediately surrounded by a number of men who attempted to forcibly take the boy out of same, some of whom were striking Lieutenant Ahlers with their fists and throwing stones at him. To protect Lieutenant Ahlers and myself, I drew my billet and after being struck by a number of stones and being kicked and

punched about the face and body by some of the persons who had surrounded the automobile, I struck back at them and after a few minutes succeeded in driving the people away from the automobile. The boy who Lieutenant Ahlers had placed in the automobile, in the meanwhile escaped from the side of the same while the Lieutenant and myself were busy dispersing the crowd.

During this trouble the wind shield of the automobile was smashed and we afterwards found a number of stones in the body of the automobile.

During the time that these stones were being thrown and the people struggling and striking Lieutenant Ahlers and myself, I recognized Assemblyman Solomon of this district who forced his way among the people shouting "pull the scabs off the cars." He then addressed me by saying "Why don't you pull the scabs off the cars — why don't you assault them?" I replied by saying "Assemblyman, you are a law maker and an officer of this State and instead of assisting me to restore order, you are interfering with me and encouraging this disorderly mob in violating the law. I now advise you to go on and mind your own business."

The obstructions referred to covered the car tracks for a distance of approximately 300 feet on both the East and West bound tracks and consisted of large pieces of asphalt and stones.

Shortly after the three cars, which had been stalled by these obstructions, had proceeded westward and while we were busy endeavoring to keep the people away from the tracks, obstructions were again placed on the west bound tracks by the mob.

The reserves having been sent for, upon their arrival they were directed to remove the obstructions and to disperse the crowd.

Respectfully,
(Signed) SAMUEL McELROY,
Inspector, 11th District.

By Mr. Sutherland:

Q. You made this report on the afternoon of the occurrence, did you? A. The afternoon of August 6, 1919.

Q. This is a carbon copy that you retained? A. Yes.

Q. And the original was sent to the borough inspector? A. To the borough inspector.

Q. Did you assault anyone there on that occasion except those people that were preventing you from discharging your official duty?

Mr. Stedman.— I object as calling for a conclusion and not proper redirect.

Mr. Sutherland.— The word “ assault ” has been used here and I merely wish to give the witness the opportunity to say —

The Chairman.— What is the question?

Q. Did you assault anybody, or strike, or interfere with anyone there on that occasion except with those people who were violating the law? A. No, sir.

Mr. Stedman.— That is objected to.

The Chairman.— Objection sustained. The report shows what he did.

Mr. Sutherland.— Very good.

Mr. Sutherland.— Is Lieutenant Ahlers here?

(No response.)

Assemblyman Evans.— On the admission of the report I desire to dissent.

The Chairman.— I would like to ask a few questions.

By the Chairman:

Q. On this parade that you observed the red flag,—when did you first observe that parade on the street? A. Just prior to the time I got to the head of the parade, which would be a block and a half or two from the head of the parade.

Q. Coming in your direction? A. No, sir; they were en masse at the time ready to start.

Q. Had they started at the time you got up to them? A. No, sir.

Q. They were ready to start? A. Yes, sir.

Q. And among the paraders was, I think you said, someone of these Assemblymen? A. Assemblyman Solomon.

Q. Was he in the crowd that was about to parade? A. He had charge of it, directing the people where to assemble and how to assemble.

Q. At that time they had red flags? A. Yes, sir.

By Mr. Stedman:

Q. And you insisted that they remove all red from the parade before they started? A. All red flags and red banners, yes.

Q. And red ribbons, too? A. No, sir.

Q. No banners that had red in them? A. No, sir.

Q. Banners that had inscriptions on them? A. Banners that had inscriptions on them. They had gilt letters on one side on a red background. In the rear it was a plain red ground.

Q. And you insisted on the removal of that? A. Yes, sir.

Q. And they removed it? A. Yes, sir.

Q. They submitted without protest? A. The Assemblyman made his protest, but it didn't go. (Laughter.)

Q. I say, they submitted without protest? A. Yes, they submitted.

Q. Did you ever stop a procession of cardinals who parade with red?

Mr. Sutherland.— I object to that.

The Chairman.— Sustained.

Mr. Sutherland.— That is all, Inspector.

By Assemblyman Rowe:

Q. Did you see any of the other Assemblymen at that time in this parade? A. No, sir.

A Voice.— Did Solomon have a red flag?

The Witness.— No, sir.

By Mr. Stedman:

Q. Didn't Solomon have an American flag? A. He did not.

The Chairman.— Proceed. Who is the next witness?

Mr. Stanchfield.— Miss Chivers, will you be sworn?

ELLEN B. CHIVERS, called as a witness, being duly sworn, testified as follows:

Direct examination by Mr. Stanchfield:

Q. Speak up as distinctly as you can because the men that are on either side of me are interested in what you say. First, how old are you? A. I will be eighteen next month.

Q. And have you any occupation at the present time? A. Stenographer.

Q. Where are you employed as a stenographer? A. I am employed at Hudson Street, Baker Importing Company.

Q. Where is that located? A. 116 Hudson Street, New York City.

Q. In New York City? A. In New York City, yes sir.

Q. Where is your home? A. My home is at 420 Sixth Avenue, Brooklyn.

Q. How long have you lived there? A. Four years.

Q. And with whom do you live there? A. I live with my sister.

Q. Is she older or younger than you? A. She is older than I.

Q. Is your father and mother dead? A. Yes, sir.

Q. Do you know Mr. Solomon, one of the five men under investigation here? A. I do.

Q. You know him by sight? A. Yes, sir.

Q. How long have you known him? A. Since 1917.

Q. Now, during the summer of 1917, had you heard Mr. Solomon from time to time make speeches? A. Yes, sir.

Q. And where did he make those speeches? A. At Ninth Street and Sixth Avenue, Brooklyn.

Q. Where is that with reference to where you live? A. Just opposite.

Q. Right opposite to where you live? A. Yes, sir.

Q. Now, came there a time when you heard him making a speech when a jitney came up? A. Yes, sir.

Q. Can you tell us about when that was? A. Well, that was I should judge about the early part of April or the first part of May, 1917.

Q. Of 1917? A. Yes, sir.

Q. Now, did you go to the meeting? A. Yes, sir.

Q. Was Mr. Solomon speaking? A. He was.

Q. You knew him at the time? A. Yes, sir.

Q. And you identify him here? A. Yes, I identify him.

Q. Now, was there a crowd gathered around the stand where he was speaking? A. Yes, sir.

Q. Now, will you tell me in your own way, just what he said that attracted your attention, and that you now remember? A. I remember that in the summer of 1917 about the latter part of April or the first part of May that there was a detachment of soldiers came to Ninth Street and Sixth Avenue for the purpose of calling for volunteers, and they asked Mr. Solomon if they might borrow his platform for that purpose. Mr. Solomon replied:

"Lend you my platform? Can you borrow my platform? Huh, the gutter is good enough for you."

A voice.—Will the stenographer repeat that last answer?

(Last answer repeated by the stenographer.)

By Mr. Stanchfield:

Q. Now, was that all that he said at the time? A. He said, "If we had our way, there would not be any one who would ask a socialist if they might borrow their platform to call for volunteers," and he continued to say, "I would not let you wipe your dirty feet on it."

Q. Now, did he give up the platform to this man? A. He did not.

Q. Now what happened after that conversation took place? A. The officer in charge of that detachment spoke from the jitney on which they had come, told them to obtain the number of recruits they could, and went their way.

Q. Now, at a later period, a band of music came along? A. There was.

Q. Was it upon the same occasion or upon another occasion?

A. It was on the same occasion. It passed on a Rapid Transit car and stopped about three minutes, I should say.

Q. And was the crowd still there? A. It was.

Q. And was Mr. Solomon still speaking? A. Yes.

Q. What, if anything, did the band do? A. The band struck up the tune to the Star Spangled Banner.

Q. And what then occurred? A. Mr. Solomon turned up his coat collar, put down his hat, and pulled it over his eyes, spit on the American flag and sat down.

Q. Did that occur in your presence? A. It occurred in my presence.

Q. And you saw it? A. Yes.

Q. And you have related here just what you saw him do and what you heard him say? A. Positively.

Q. As far as you are able? A. Yes, sir.

Mr. Stanchfield.—You may cross-examine.

Cross-examination by Mr. Stedman:

Q. With whom have you talked during the last day about this case? A. Mr. Berger and Mr. Brody, I believe.

Q. Where did you talk with Mr. Berger? Right here in the Assembly, and today.

Q. When? A. Today.

Q. You talked with him today? A. Yes, sir.

Q. What did he ask you to do? A. Asked me just what I have seen.

Q. Is that all he asked you? A. That's all.

Q. He met you today in the Assembly chamber and he asked you what you had seen? A. Yes.

Q. The only question he asked you? A. He asked me what I had seen when we arrived, and various other things.

Q. He asked you additional questions? A. Yes, sir.

Q. He asked you where you had lived? A. Yes, sir.

Q. He asked you what happened? A. Yes.

Q. And you told him? A. I did.

Q. Whom did you talk with yesterday? A. Mr. Berger and Mr. Brody.

Q. Where? A. At the Prince George Hotel, New York City.

Q. Who is Mr. Brody? A. He had charge of the draft officers during the war.

Q. How long have you known Mr. Brody? A. Only since yesterday.

Q. And what time did you go to the Prince George? A. Eleven o'clock.

Q. Why did you go there? A. For the purpose of testifying against Mr. Solomon.

Q. For the purpose of testifying against Mr. Solomon? A. Yes.

Q. At whose request? A. Well, in answer to a letter I wrote to Speaker Sweet.

Q. You wrote a letter to Speaker Sweet, did you? A. I did.

Q. When did you write this letter to Speaker Sweet? A. Sometime during last week.

Q. And you wrote that from reading what you had in the newspapers, didn't you? A. I did not.

Q. Why did you write to Speaker Sweet? A. Because I think it was the duty of any American to take the stand against one who has committed treason against their country.

Q. When did you send the letter? A. Sometime during last week; the exact date I do not recall.

Q. What date, do you recollect? A. I do not recall what date; the beginning of the week, I think.

Q. Have you the letter here? A. I haven't at present.

Q. Was that placed in an envelope? A. It was.

Q. And the envelope was addressed by whom? A. By me.

Q. Where was it mailed? A. 9th street and 6th avenue, Brooklyn.

Q. And you don't recall whether it was the first or the last part of the week? A. I believe it was the first part of the week, I would not be positive.

Q. How frequently had you seen Mr. Solomon prior to that time? A. I had seen him since the beginning of his campaign, I believe, since the first part of April.

Q. What year? A. 1917.

Q. You saw him every day? A. Not every day, every Monday evening.

Q. What were you doing Monday evenings? A. Listening to the speech Mr. Solomon was making.

Q. What were you working at at this time? A. I was not working at that time.

Q. What were you doing? A. Attending business college.

Q. Where? A. 9th street and 5th avenue.

Q. And you remained there every Monday evening to hear him speak? A. Yes.

Q. How many Monday evenings did you hear him? A. Up to that time, about four.

Q. Did you hear him after that? A. Yes, sir.

Q. Repeatedly every Monday? A. Yes, sir.

Q. During how long a time? A. During the course of the whole summer, a few weeks previous to election.

Q. When was the election? A. In November.

Q. And after election, did you hear him after that? A. No.

Q. Did you tell any one during that time what you had heard him say? A. No, there was plenty there who had heard it.

Q. I am asking you did you tell any one what you had heard him say? A. No.

Q. Did you tell any one during the year 1918? A. No.

Q. Did you tell any one during the year 1919? A. No.

Q. The first time you ever mentioned it was 1920? A. Yes.

Q. That was a week ago? A. Yes.

Q. Something like two years and a half and you told it to no one, is that right? A. That's right.

Q. Can you mention anything he said in his speech that he delivered that day? A. As far as I can recall it was the part when the soldiers came down —

Q. I mean, his speech, what did he say first; were you there when the meeting started? A. I was.

Q. What did he say first? A. The subject was "America and the War." I didn't pay attention to the whole meeting, therefore I don't know at that time.

Q. Any one with you? A. Yes.

Q. Who was with you? A. Quite a number of people that are not here today.

Q. State the name of any of them. A. Mrs. O'Neill, Mr. Dunn.

Q. Where does Mrs. O'Neill live? A. South Brooklyn.

Q. Whereabouts? A. 318 15th street.

Q. And you say that she was with you? A. She was.

Q. Have you seen her recently? A. Yes.

Q. Talked with her about this? A. Yes.

Q. Where have you talked with her? A. Here.

Q. In this room? A. Not altogether in this room, but since yesterday.

Q. Who sent for her, do you know? A. No, sir.

Q. Do you know who sent for her? A. Why, yes, I sent for her myself.

Q. You went with her to the Prince George? A. I did.

Q. And you both talked over this statement with them? A. Yes.

Q. Is she in this room now? A. Yes.

Mr. Stedman.—I ask that she be excluded during the testimony of this witness.

The Chairman.—You have got through with the witness, haven't you?

Mr. Stedman.—I haven't commenced yet.

Q. Was there any one else with you at that meeting? A. There was not.

Q. Mrs. Brody was the only one? A. Mrs. O'Neill.

Q. Mrs. O'Neill was the only one? A. She was.

Q. Do you remember any one else being there? A. Not that I personally know; others of the neighborhood, that was all.

Q. Where did you meet Mrs. O'Neill that day? A. At the Prince George.

Q. I mean, before that, two and a half years ago? A. At club that we had in South Brooklyn.

Q. Where was that, where did you meet her? A. Our club at that time, was, I think, at 9th street and 6th avenue.

Q. What club was it? A. The American Anti-Socialist League.

Q. And who was the director of that club? A. Mr. Russell J. Dunn.

Q. And they have a group of members that belong to that club, that anti-socialist club? A. Yes.

Q. And you are a member of that club? A. I am.

Q. And you are a member of it now? A. I am.

Q. And Mrs. O'Neill is a member of it also? A. Yes, sir.

Q. You have discussed this matter in the club? A. No, sir.

Q. Never mentioned it there? A. No, sir.

Q. You went back to the club that night, didn't you? A. No, sir.

Q. Did you go the next day? A. No, sir.

Q. Did you go the next week? A. Yes, sir.

Q. You went the next week? A. Yes, sir.

Q. They had a meeting, did they? A. Yes.

Q. Did you report this fact at that time? A. I did not.

Q. You never mentioned the fact at the club of what he stated at this meeting that you are referring to? A. No.

By Mr. Stedman:

Q. Where was the American flag at that time? A. The American flag was flying on Mr. Solomon's stand beside the red flag.

Q. There was an American flag beside the other? A. Yes.

Q. There was a large group there? A. Yes.

Q. People all around, were there not? A. Yes, sir.

Q. Did you attend your club repeatedly after that? A. I did.

Q. Did you ever mention this to any member after that? A. I did not.

Q. Did you discuss this proceeding before you sent the letter to Chairman Sweet? A. I did not.

Q. You never mentioned it to any one? A. No.

Q. No one mentioned it to you? A. No.

Q. Did you show that letter to anyone? A. No.

Q. Were the police there at that meeting? A. They were.

Q. How many? A. About three.

Q. About three policemen? A. Yes.

Q. And there were a number of soldiers there, too? A. No, there were no soldiers after the jitney had passed.

Q. But the soldiers came there? A. They did.

Q. On what? A. On a jitney.

Q. Did they speak there? A. They spoke from the jitney.

Q. How long did the jitney remain while they were speaking from it? A. About ten minutes.

Q. Were there policemen there during the time this red flag was flying? A. Yes.

Q. And they were there while the American flag was flying? A. Yes.

Q. And they were there while the soldiers were speaking? A. Yes.

Q. While the soldiers were speaking was Solomon talking at the same time? A. No.

Q. They were not both talking at the same time? A. No.

Q. How frequently have you attended your club, which was organized to oppose Socialists, since that time? A. Well, every week since that time.

Q. You have gone to your club every week since that time? A. Yes.

Q. And the object of that club is to oppose Socialists? A. It is.

Q. And in that two and a half years you have never revealed to a single member of that club the fact that Mr. Solomon spat on the American flag? A. No, they were there to see it themselves.

Q. They were all there, were they? A. Most of them.

Q. Will you give us the names of the additional ones? A. I cannot give you the names of the additional ones, all the names.

Q. Can you give me any? A. Miss Myer.

Q. Miss Myer? A. Yes.

Q. What is her address? A. I don't know.

Q. Can you give me the names of any others? A. No, I cannot seem to recall them just now.

Q. And in front were the police. Were they there during his entire speech? A. They were.

Q. And in front were the police when he spat on the American flag? A. Yes.

Q. Were the soldiers there at that time? A. They were not.

Q. Were they gone? A. He spit on the American flag when the band was playing on the Rapid Transit car.

Q. You remember that very distinctly? A. Yes.

Q. The noise did not interfere with your seeing? A. No, it did not.

Q. And you could see that very distinctly? A. Very distinctly.

Q. While the flag was up in the air? A. The flag was not up in the air. It was on the platform.

Q. It was on the platform now? A. Yes.

Q. Was it taken down? A. No, it was always on the platform.

Q. Was the red flag always on the platform? A. Yes.

Q. How were they draped? A. There were small flags and there were six, and they were put up on each side.

Q. He had to lean over did he not? A. No, he did not have to lean over.

Q. Just stand right on top over it? A. Yes, sir.

Q. And the policemen and the whole crowd were there when he spit on it? A. Yes. He said, "They are interrupting our meeting."

Q. What else did he say? A. That is all. We said something about it and we told the police about it, and Mr. Solomon said, "They are interrupting our meeting," and the police did not do anything about it.

Q. The police would not protest? A. They would not.

Q. And you never mentioned the fact to any of the members of your club? A. I did not.

Q. Do you know whether Mrs. O'Neil did? A. I don't know what she did.

Q. You do not know whether she mentioned it or not? A. No.

Q. And you called her up? A. I did not call her up.

Q. Before you went over to the Prince George? A. No.

Q. You did not call her up? A. No.

Q. Did you send for her? A. I went myself.

Q. You went to the Prince George yourself? A. Yes.

Q. Did you call her up afterwards? A. I did not.

Q. You had nothing to do with bringing her over to the Prince George? A. I did have something to do with it. She came to chaperone me.

Q. She came to chaperone you? A. Yes.

Q. She called for you? A. No, I met her at the Prince George.

Q. Do you know how she came to go there? A. She came through my request.

Q. You requested her to go there to chaperone you? A. Yes.

Q. Did you meet her before you went inside? A. No.

Q. The first you met her was inside of the room? A. Yes.

Q. Were you both present at the same moment when you met Mr. Berger? A. Yes.

Q. Did you meet anyone else prior to meeting him? A. Yes, one gentleman.

Q. What was his name? A. I don't remember his name.

Q. Did he ask you any questions? A. He did not.

Q. He ushered you into the room where Mr. Berger was? A. No. Mr. Berger was not in at the time, so we waited till he came.

Q. What time did he come? A. About 11:30.

Q. And then did you go in? A. We did.

Q. Both? A. Yes.

Q. Was there a stenographer there? A. Yes.

Q. Do you know the name of the stenographer? A. I do not.

Q. Were all the questions and answers taken, apparently, by the stenographer? A. I don't know.

Q. You have no idea who that stenographer was? A. No.

Q. What was the first thing said upon your entrance? A. To just say what I wrote to Speaker Sweet.

Q. Who said that? A. Mr. Berger.

Q. Was there anything said to Mrs. O'Neill? A. There was not.

Q. There was not a word said to her? A. No.

Q. Did she say anything? A. She did not.

Q. Then Mrs. O'Neill never said a word during the time you were in there with Mr. Berger at any time; is that correct? A. Except that she saw Solomon refuse to give his platform to the soldiers for the purpose of recruiting.

Q. Did she say anything else? A. She did not.

Q. That was the sole and only thing she said? A. Yes.

Q. That she saw Solomon refuse to give his platform to the soldiers? A. Yes.

Q. What time did these soldiers come up there? A. I should say about 9:30.

Q. How many were there? A. I couldn't tell you the exact number.

Q. Approximately. A. I should say about fifteen.

Q. There were fifteen soldiers? A. About.

Q. Do you know who spoke first? A. I do not understand you.

Q. Between Solomon and the soldiers, who spoke first? A. The officer in charge of that detachment.

Q. And what did he say? A. If he might borrow his platform, for the purpose of recruiting volunteers, for five minutes.

Q. What was the reply — did Solomon reply? A. Yes.

Q. What did he say? A. He said, "Can you borrow my platform — lend you my stand? The gutter is good enough for you. If we had our way there would not be anyone allowed to ask a Socialist for the use of his stand for volunteering."

Q. Do you remember that distinctly? A. Yes.

Q. Did you write it down at the time? A. No.

Q. You made no memorandum of it at the time? A. No.

Q. How old were you at that time? A. I believe I was nearly seventeen.

Q. How old are you now? A. I will be eighteen next month.

Q. Eighteen next month? A. Yes.

By Assemblyman Cuvillier:

Q. You said you were a stenographer? A. Yes.

By Mr. Stedman:

Q. And how old were you then? A. Nearly 17.

Q. Nearly 17? A. Yes.

Q. Do you keep books? A. What kind of books?

Q. Bookkeeping, where you are — figures? A. No, I do not.

Q. Where are you working now? A. The Baker Importing Company.

Q. The Baker Importing Company? A. Yes.

Q. Have you talked with anyone there at all about this matter? A. I have not.

Q. Did you send your letter in typewriting? A. Yes.

Q. Or longhand? A. Typewriting.

Q. You do not like Socialists, do you? A. No, sir; I do not like traitors to my flag and to my country.

Q. That is the reason you are opposed to them? A. Yes.

Q. Where were you born? A. I was born in America.

Q. Where? A. Jamaica, Long Island.

Q. Whereabouts, Ohio? A. Long Island.

Q. How long had you been a member of this club? A. Since 1918.

Q. You joined the club in 1918? A. Yes.

Q. You are sure of that? A. Positive.

Q. What is the name of the club? A. American Anti-Socialist League.

Q. And you joined that in 1918? A. Yes.

Q. Did you know of its existence before that time? A. I did.

Q. Had you ever been to its place? A. No, sir. They had only men at that time as members.

Q. And you did not go to the place? A. I went to the place a couple of times and attended its meetings once, I believe.

Q. Did you go there around April or May? A. Once in April.

Q. What year? A. 1917.

Q. Were they all men there then? A. They were.

Q. No women there? A. No.

Q. You are positive of that? A. Positive.

Q. And where was it you met Mrs. O'Neill? A. At the American Anti-Socialist League.

Q. That same evening? A. No, sir.

Q. I understood you to say you were only there once since April — is that true? A. Positive.

Q. And it was in April that this speech was made by Solomon? A. Yes.

Q. And you said there were no women there? A. No, not at that time.

Q. And yet you met Mrs. O'Neill there? A. I met Mrs. O'Neill there, yes.

Q. Were there any other women besides her? A. Why, not at that time.

Q. Then when you say there were no women there, you were mistaken? A. No.

Q. Is she a man? A. No.

Mr. Stanchfield.— It was not the same occasion.

Mr. Stedman.— Then I am confused on that.

Mr. Stanchfield.— Yes, you are.

By Mr. Stedman:

Q. I am trying to fix the date Solomon spoke, when you say Mrs. O'Neill was with you. A. The latter part of April or first part of May, 1917.

Q. Now then, during April, 1917, were you at the meeting of this club for the purpose of opposing Socialists? A. I was not at the meeting of any club for the purpose of opposing Socialism.

Q. Were you at the meeting of this club that you have referred to? A. No, I did not attend the meetings.

Q. Were you in its place of assemblage? A. I was there for a few minutes.

Q. Were you there during May or March? A. No, sir.

Q. When you went to the place of its assemblage, whom did you meet there? A. Do you mind make that a little clearer?

Q. Whom did you meet, if anyone, there in April, 1917? A. I did not meet anyone in April, 1917.

By the Chairman:

Q. As I understand, you did not join until later, 1918? A. Yes, sir.

By Mr. Stedman:

Q. Did you see any person there when you went in there, that you now remember? A. I seen lots of people, but not any that I knew.

Q. You saw no one whom you knew at that time, and you do not recall now that you know anyone that you saw then? Do you know now any one who was there at that time? A. I don't know of anyone who was there at that time, no.

Q. Do you know anyone during May, who was there at that time? A. I was not there during May.

Q. I think that was the right meeting. Do you take an obligation to oppose Socialism in that society? A. We do not.

Q. You just join it? A. Yes.

Q. And pay dues? A. Yes.

Q. Have you any explanation to make of the fact that you never revealed to any member of this society, organized to oppose Socialists, that Mr. Solomon had spat on the flag and referred to the gutter for soldiers? Have you any explanation to make as to why you never mentioned that to any member of that club?

Mr. Stanchfield.—I object to that, Mr. Chairman. She is not called upon to make any explanation.

Mr. Stedman.—I am asking her if there is any reason in her mind.

The Chairman.—Well, we are pretty liberal with cross examination, but I think I will sustain the objection.

By Mr. Stedman:

Q. Do you know of any reason why you kept that a secret so long? A. It was well known; it was no secret.

Q. It was well known all around, was it? A. Yes.

Q. Will you tell us some people who knew it besides yourself?

A. I cannot recall the names.

Mr. Stanchfield.—You have been all over that, Mr. Stedman, once, and I object to going over it again, in the interest of time.

Mr. Stedman.—Well, before we are through we will take up less than one quarter of the time that the prosecution has taken in this case.

Mr. Stanchfield.—I think very likely that is true. If I were representing these five men, I would take up a good deal less.

The Chairman.—Now proceed, if you have anything further.

Mr. Stedman.—Yes, I have.

By Mr. Stedman:

Q. Mr. Solomon ran for an office after that time, did he not?

A. Not during the year of 1917.

Q. Did he in 1919? A. Yes.

Q. You knew he was a candidate? A. In 1919?

Q. Yes? A. Yes, sir.

Q. Did you know he was a candidate then? A. Yes.

Q. What? A. Yes, sir.

Q. Did you hear him speak then? A. I did not.

Q. Did you hear him speak any in 1918? A. No, sir.

Q. Did you hear him speak any in the latter part of 1917?

A. Until a few weeks before election in 1917.

Q. When was the election in 1917? A. November 4th, I believe.

Q. And the first time you heard him speak was a few weeks before election? A. No, sir, during the first part of April.

Q. Did you hear him from that time until the close of election?

A. I think nearly the close of election.

Q. Can you quote any statement made by him in any address except what you have just mentioned? A. I do not recollect now the statements that he said.

Q. What did you say? A. I do not recollect the statements now that he said.

Q. In all the speeches you ever heard him make, and you heard him make them frequently on Monday evenings, you can quote nothing said by him except just what you have related, is that true? A. Yes, sir.

Q. You live with your sister, I believe you said? A. I do.

Q. You talked this matter over with her? A. I did not.

Q. You never mentioned it to her? A. No, sir.

Q. Not a syllable A. Not until I wrote the letter to Speaker Sweet.

Q. Where did you address the letter? A. To Speaker Sweet, Albany, N. Y.

Q. Had you read in the papers about it. A. I had.

Q. Do you know Russell J. Dunn? A. I do.

Q. How long have you known him? A. Since 1918.

Q. Has he said anything to you about this matter? A. Absolutely nothing.

Q. Where did you meet him? A. I met him at one of the meetings of the club.

Q. How much are the dues — do you pay? A. I do.

Q. How much; what are the dues? A. A quarter a week.

Q. How long since you have seen Russell Dunn? A. About three weeks.

Q. What do you say? A. About three weeks.

Q. Are you certain you saw Russell Dunn within the last four weeks? A. Yes.

Q. How often did you see him prior to that time? A. Only once every week at the meeting of the club.

Q. You saw Russell Dunn once every week at the meeting of the club? A. Exactly.

Q. From 1917? A. No, sir, from 1918.

Q. From what time in 1918? A. That I could not exactly say.

Q. Approximately, in the spring, summer or fall? A. In the summer.

Q. You saw him every week? A. Not every week, sir.

Q. Well, now, every day? A. Well, I did. There were times when I missed.

Q. Well, you saw him during the summer of 1918? A. Yes, sir.

Q. Would you say you saw him in the fall? A. I would.

Q. And in the winter of 1918 and 1919? A. Not all winter, no.

Q. Two or three times? A. Well, I should say about six times.

Q. About six times. Did you see him in the summer of 1919? A. Yes.

Q. And in the fall of 1919? A. Not wholly.

Mr. Stedman.— I think that is all.

By Mr. Stanchfield:

Q. Your window of the place where you live, if I understand you correctly, looks out upon the place where Mr. Solomon used to deliver these speeches. A. It does.

Q. So that in the warm summer evenings, if you have your windows up, you had to listen to him, whether you wanted to or not? A. Yes, sir.

By Assemblyman Evans:

Q. What did the crowds do when he spit on the flag? A. They raised strong objection.

Q. What did they say? A. They complained to the police, and Mr. Solomon said "they are interrupting my meeting," and they refused to do anything.

By Assemblyman Bloch:

Q. Do you say there was a police officer present at that time? A. Yes.

Q. Did he take any action? A. No, sir.

Q. Why didn't you ask the police officer to arrest him at that time if you thought his act was treasonable? A. There were others that did, and he refused to do it.

The Chairman.— What did you say about that? Will the stenographer read that back, please?

(The last question and answer were read back by the stenographer).

By Assemblyman Bloch:

Q. When you wrote to Speaker Sweet on whose paper did you write, on your office paper? A. No, sir, on my own private paper.

Q. Did you typewrite that letter? A. I did.

Q. Did you sign your name? A. I did.

Q. Is the letter here, Mr. Stanchfield?

Mr. Stanchfield.— You better ask the Speaker. I am not his guardian.

Assemblyman Bloch.— I just want to know it. Mr. Berger, have you the letter?

Mr. Berger.— No, I haven't it; it may be around here somewhere. I haven't it.

By Assemblyman Bloch:

Q. Who was in the room when you spoke to Mr. Berger the first time? A. Why, Mr. Berger and another gentleman.

Q. Mr. Who? A. Mr. Berger and another gentleman.

Q. Who is the other gentleman? A. I do not recall his name.

Q. You mentioned somebody, about being on the draft board; who is that gentleman? A. I believe Mr. Brody.

Q. Was he in the room at that time? A. No.

Mr. Berger.— You mean Mr. Conboy?

The Witness.— Yes.

Assemblyman Cuvillier.— The gentleman behind you (indicating Mr. Conboy)?

The Witness.— Yes, sir.

By Mr. Stedman:

Q. Then Mr. Conboy was there and not Mr. Brody? A. Yes, Mr. Conboy.

Q. And that was day before yesterday? A. No, that was yesterday.

Q. You had forgotten that which occurred yesterday? A. No, sir.

Mr. Stanchfield.— No, she made a mistake in the name.

Mr. Berger.— Mr. Stedman, there is no Mr. Brody.

Q. Is there such a person as Mr. Brody? A. No, sir, it was Mr. Conboy to whom I referred.

Q. How did the name Brody enter your mind? A. That I don't know.

Q. Do you think it is possible that what you believe you remember or recall two and one-half years ago may have entered your mind—

Mr. Stanchfield.— I object to that.

(Objection sustained).

Q. You were asked about being in your home and listening to the speeches; were you in the house at the time the speeches were made? A. No, sir, I was right near the platform.

Q. Mr. Dunn made speeches there, did he not? A. He did.

Q. You heard him make speeches? A. I did.

Q. Can you quote anything that he said? A. On the following Wednesday night the same detachment —

Q. Answer it yes or no?

Mr. Stanchfield.— The young lady is not obliged to answer yes or no. It does not call for a categorical answer. The question addressed to the witness was whether or not she could recall anything that Mr. Dunn said, and she was telling you.

Q. That's it; whether or not you can recall; can you recall; I am not asking what he said, but can you recall anything that Mr. Dunn said? A. Yes.

Q. He made several speeches, did he not? A. He did.

Q. Was he arrested? A. He was.

Q. And sentenced? A. He was.

Q. For his speech? A. Yes.

Q. When? A. I cannot recall the exact date nor the approximate date.

Q. And he is the one who was president of your club? A. He is the founder of our club.

Q. He is the founder of your anti-socialist club? A. Yes.

By Mr. Stanchfield:

Q. Mr. Stedman asked you if you could recall anything that he said; have you that question in mind now? A. Yes.

Q. And you stated to Mr. Stedman that he did make a speech there to which you listened on the Wednesday following the Monday that Mr. Solomon made the speech to which you have testified? A. Yes, sir.

Q. Will you tell us as far as you are able what you recall Mr. Dunn to have said? A. The same detachment called for volunteers the following Wednesday night, and they asked Mr. Dunn the same questions they asked Mr. Solomon, if they might borrow his platform for five minutes to call for volunteers, and Mr. Dunn gladly gave it to them and said, "You may have the platform as long as you wish and any time you wish," and he started speaking and gave the stand willingly.

Mr. Stanchfield.— Now, will you gentlemen produce — we have served a subpoena duces tecum to produce the Call for February 10, 1912. Has Mr. Gerber here got the Call?

Mr. Gerber.— I was not called upon to bring any "Calls."

Mr. Berger.— That subpoena was served on Mr. Irwin yesterday, and a subpoena fee paid to him.

Mr. Stanchfield.— Only served yesterday ?

Mr. Berger.— Yesterday. This is the third subpoena served on Mr. Irwin.

By Assemblyman Bloch :

Q. When is your next birthday ? A. March 2d.

Q. How old will you be then ? A. Eighteen.

LIEUTENANT ADOLPH E. AHLERS, called and sworn as a witness, testifies as follows :

Direct examination by Mr. Sutherland :

Q. Are you a lieutenant of the police of the city of New York ?
A. I am.

Q. Were you with Inspector McElroy on the occasion concerning which he testified when there was some disturbance in Brooklyn ? A. I was.

Q. Will you very briefly state what took place on that occasion and what, if anything, you heard Mr. Solomon say ? A. About 1 p. m. on August 6, 1919, we arrived at the intersection of St. John's place, East New York avenue, Douglass street and Saratoga avenue, and we found a crowd of about 2,000 people present. The tracks on the west and eastbound — the rails on the east and westbound tracks were covered with large pieces of asphalt and stone, and on the westbound tracks there were three cars stalled. We were in an automobile. We pulled into the middle of the square alongside of the track, placed our shields on our coats, and descended from the automobile and announced to the crowd that we were police officers and ordered them to disperse. We started in to take the obstructions from the track when the crowd started in throwing stones and mud at us.

Q. How many were in the crowd there ? A. I suppose there were in the neighborhood of about 2,000 people, men, women and children, but mostly men.

Q. Go ahead ? A. We started to take the obstructions from in front of the cars. The motorman of the westbound car and the conductor came off and assisted us, and after getting the obstructions removed, there was a boy I should say about 14 years of age who took up a large piece of asphalt and threw it in front of the rear wheel of the rear truck. The inspector took hold of him passed him over to me and said, "Lieutenant, place this boy in the automobile." I started for the automobile, and the crowd

of men following me up — I placed the boy in the automobile and the men from behind were kicking me and punching, and I turned around and the inspector came over alongside of me, and in the meantime the boy had got out from the opposite door of the automobile. We turned around to the crowd around the automobile, and we got them away from the automobile. We stood facing the crowd trying to push them back, when I heard a voice shouting, "pull the scabs off the car, pull the scabs off the cars," and Assemblyman Solomon approached the inspector from his right. The inspector was on the right of me and I close up beside him, when he said "pull the scabs off the cars." He addressed the inspector by saying, "Why don't you pull the scabs off the cars, why don't you assault them?" The inspector turned to him and said, "Assemblyman, you are a lawmaker, and an officer of the State. Instead of assisting me to restore order you are interfering with me and encouraging this disorderly mob in violating the law." He said, "I now advise you to go on and mind your own business." With that Assemblyman Solomon got in amongst the crowd and he was lost to my view.

Q. How long did the disturbance keep up after that? A. About 15 minutes, I should judge. Lieut. Eggers, who was with us at the time, before we had this controversy there with Assemblyman Solomon, had left us and gone and telephoned for the reserves. I suppose this disturbance kept up about 15 minutes afterwards, when the reserves came.

Q. When the reserves came the crowd was dispersed? A. Yes, sir, the crowd was disbursed, obstructions removed from the tracks, and the cars went on.

Q. You knew Assemblyman Solomon? A. Yes, sir, I did.

Q. So there is no question about his identity? A. No, sir, no question at all.

Q. Did you see Inspector McElroy get hit or struck in that melee? A. Yes, sir, both of us were hit and struck.

Q. Any missiles or stones thrown? A. Yes, sir, there was a stone as big as my hand that struck me over the top of the head, and if it had been any shorter, it would have dashed my brains out.

Q. Did you see Inspector McElroy hit with any stones? A. I did.

Q. Did you see him struck by anybody with a fist, or kicked? A. We were busy there attending to ourselves. It was hard for me to keep my eyes on him and defend myself, too.

Cross-examination by Mr. Roe:

Q. Did you have your uniforms on? A. No, sir, I was in citizens' clothes, my shield attached to the button hole of my coat. It was in the summer time.

Q. You and the inspector laid around pretty lively there with the clubs? A. I had no club. I laid around with my feet and my fists pretty lively.

Q. And the inspector had a club and you had your feet and your fists? A. That's all I had. I had no blackjack with me and no billy.

Q. And were your feet and your fists about as effective as the inspector's club? A. Well, I kept them busy.

Q. Now, did you arrest anybody there except this boy? A. We didn't arrest anybody. There were several arrests made there by the policemen who came, the reserves who came afterwards.

Q. After you had left? A. After we had left, yes, sir.

Q. I am not asking you about that, I am asking this particular crowd where the inspector laid around so lively with his club, and you with your feet and your fists, whether you arrested anybody for violation of the law? A. No, sir, we did not.

Q. Except this boy? A. This boy.

Q. How old was the boy? A. I should judge about 14 years of age.

Q. Just one boy of 14 you arrested out of this mob? A. I didn't arrest him.

Q. The inspector did? A. The inspector did. Told me to take charge of him, to put him in the automobile.

Q. Then the boy got away from you? A. He got out on the other side of the automobile.

Q. Now, you didn't have your uniforms on and no one knew it unless you announced you were policemen or they saw your star? A. We placed our shields in the lapels of our coats, our shields are very conspicuous, and announced in a loud tone of voice that we were officers.

Q. You said all that; now, there was a crowd of about 2,000 people there? A. I should judge about 2,000.

Q. And they were making lots of noise? A. A lot of noise.

Q. What anybody could see, being in the crowd was, if not close enough to see your star or hear what you said, was that two men came there in an automobile, picked up a boy about 14 years of age and put him in the car, answer that yes or no? A. I can answer that by yes.

Q. You couldn't answer it any other way very well, I suppose?
A. I can answer it in another way, too.

Q. You are very versatile in your answers as a witness; how long had you known Assemblyman Solomon? A. Oh, about a year and nine months.

Q. Now, when he came up there he said to the inspector something to this effect, if I understand you, "Why don't you pull the scabs off the car," is that right? A. Yes.

Q. At that time you and the inspector were pulling around a good many other people in the crowd, knocking them around? A. Not at that time.

Q. You were not? Was it before or after that time that Assemblyman Solomon spoke that you commenced using your feet and your fists and the inspector commenced using his club? A. Before that.

Q. You had been using your feet and your fists and the inspector had been using his club before? A. Before that.

Q. Before Mr. Solomon spoke? A. Yes.

Q. Now, how long before Mr. Solomon said this to the inspector? A. I should judge about two minutes, we cleared the crowd from the automobile, and then turned facing the crowd and endeavoring to get rid of them from in front of the automobile.

Q. Now I get it; you had, by the use of your feet and your fists and the inspector by the use of his club, dispersed the crowd, the bystanders there, and then Assemblyman Solomon came up and said to the inspector, "Well, why don't you get the scabs off the cars?" A. No.

Q. Is that what occurred? You can answer that yes or no and make your explanation afterwards.

(Question repeated by the stenographer as follows): "You had, by the use of your feet and your fists, and the inspector by the use of his club, dispersed this crowd, the bystanders there, and then Assemblyman Solomon came up and said to the inspector, 'Well, why don't you get the scabs off the cars?'"

Mr. Roe.— Answer the question.

The Chairman.— The question is so involved that I am frank to say I cannot answer it.

Mr. Roe.— Let the stenographer repeat it.

(Question repeated.)

Mr. Roe.— I except to his statement that he had dispersed the crowd before.

The Witness.— Around the automobile I had said.

Mr. Roe.— I amend the question that he had dispersed the crowd around the automobile in the manner that you described.

The Chairman.— Make the best answer you can.

The Witness.— After getting the crowd away from in front of the automobile we stood facing the crowd when we heard some one shout " Pull the scabs off the car. Pull the scabs off the car." I then saw Assemblyman Solomon approaching from my right, and the right of the inspector. He came up close to the inspector and said: " Why don't you pull the scabs off the car? Why don't you assault them? "

By Mr. Roe:

Q. Now, you have repeated that three times, perhaps you will answer my question? A. I have answered it.

Q. Now, my question was, whether when Assemblyman Solomon came up and said to the inspector in substance, " Why don't you pull the scabs off the cars? " that was immediately after you and the inspector had dispersed the crowd around the automobile in the manner that you have described? A. Yes, sir.

Q. That is what I asked. Were there any scabs on the cars at that time? A. There was not.

Q. Then, Mr. Solomon's statement, as you make it here, had no possible point, did it? A. No, sir, it did not.

Q. No, no. There weren't any scabs at the cars to pull off? A. There were not.

Q. No, sir. Now, have you any explanation that you care to make as to why Mr. Solomon told you to pull the scabs off the cars when there weren't any scabs on the cars? A. He did not tell me to pull scabs off the car.

Q. No, or told the inspector that if there were any scabs on the car, can you answer? A. The only answer I can make to that is that the Amalgamated Street Railroad Union was supposed to have called a strike that morning at four o'clock — four A. M. I had gone to the Bergen street barn, at four A. M., and inquired as to conditions there. The superintendent, Mr. Buntgarten, told me he had 225 motormen and 225 conductors, and

only one man had failed to report for work. He pointed that man out to me on the opposite side of the street. I asked him how many men in his barn belonged to the Amalgamated Street Railway Union, and he told me about 25, as far as he could learn. The rest of them belonged to the B. R. T. Benevolent Association, and union of their own.

Q. Well, now, was Mr. Solomon with you while you made this trip around and had this conversation you described? A. Mr. who?

Q. Assemblyman Solomon? A. With me?

Q. Yes. A. No, sir. (Laughter.)

Q. Then he did not hear any of this talk that you have been relating here? A. No. He heard? I do not suppose he knew how many there was in the Bergen street barn.

Q. Now, then, this lengthy statement that you have made about the talk that you had down at the barn, or somewhere else, with somebody when Mr. Solomon was not there, your only explanation as to why you claim that Mr. Solomon told the inspector to pull scabs off the car when there weren't any scabs on the car —

A. Now, counselor, if I understand that last question that you asked was: "What made you believe that Mr. Solomon thought that they were scabs?" I told you that there were no scabs on the car.

Q. Now, we have that settled. That was perfectly plain, anybody could see that? A. The men were dressed in uniform.

Q. Anybody could see there were no scabs on that car? A. There were no strikebreakers employed.

Q. Solomon could see it? A. Why, yes, Solomon could see it.

Q. So there was no possible point in Solomon saying that to you? A. I do not know what was in Mr. Solomon's mind. I do not know what he construed as a scab. (Laughter.)

Q. But there was a great point in his saying to you at that time, "Why do you beat these men up here?" or words to that effect? A. He did not mention words to that effect to me at all, "why did you beat people up?"

Q. Didn't he say anything to the inspector there, in your hearing, to the effect of "why are you beating these people?" A. The only thing he said, "Why don't you pull the scabs off the car? Why don't you assault them?" I do not know Mr. Solomon's mind.

Q. He didn't say anything about "why are you assaulting these people" that he saw you assaulting there with your feet and your fists, and the inspector with his club? A. No, he did not.

Q. He just wanted to know why you did not assault somebody else, and that somebody else was not there at all, is not that the fact? A. I do not know who he construed as scabs.

By Mr. Sutherland:

Q. Were there two rival unions among the employees of that railway company? A. There were.

Q. Do you know whether one organization sometimes calls the other by this offensive epithet which has been mentioned here? A. They do. That time the Amalgamated Street Rail Union calls the ones that belonged to the B. R. T. Union scabs, because they did not belong to their union.

Q. That was what the trouble was? A. That was the trouble.

Q. One was trying to force the other into their union? A. That was the idea.

Q. And compel the railroad company to force them into that union? A. That was it.

By Colonel Wells:

Q. May I ask a question right here? Counsel asked you whether you announced upon your arrival that you were police officers? A. We did in a large tone of voice — in a loud tone of voice.

Q. And it was loud enough for those to hear you immediately in front of you? A. A distance of 100 feet, I should say.

Q. And those in front of you were able to see your insignia of office? A. They were.

Q. Your badge? A. Yes, sir.

Q. And those in the attacks saw it? A. Yes.

The Chairman.—Is there anything further?

Mr. Roe.—Just a few questions.

By Mr. Roe:

Q. But all these men on the cars, the employees there, had their uniforms on, didn't they? A. Yes, sir.

Q. Regular uniforms? A. Regular uniforms, yes.

Q. When the inspector spoke to Assemblyman Solomon and said something to the effect about interfering here, you are creat-

ing a disturbance, not helping to quell one, what did Assemblyman Solomon do? A. He pushed himself through the crowd and was lost to my view.

Q. He did not make any disturbance and did not dispute with the inspector at all? A. Not after the inspector spoke to him.

Q. He went quietly away? A. He certainly did. (Laughter.)

By Mr. Sutherland:

Q. Do you know whether or not the newspaper had announced there was a strike called by the Amalgamated? A. Yes, for 4. A. M.

Mr. Roe.—I object to what the newspaper announced.

The Chairman.—The record may be amended by striking out the redirect.

We will now have a recess until 5 o'clock.

(Whereupon, at 4:45 P. M., a recess was had until 5 o'clock P. M.)

AFTER RECESS

The Chairman.—Proceed.

Mr. Conboy.—Mr. Bunzl.

RICHARD C. BUNZL, called as a witness, being duly sworn, testified as follows:

Direct examination by Mr. Conboy:

Q. Where do you live, Mr. Bunzl? A. 152 East 22nd street.

By Assemblyman Cuvillier:

Q. Where did you say you lived? A. 152 East 22nd street.

Q. That is in the 20th Assembly District? A. I think so.

Q. That is the District I represent.

By Mr. Conboy:

Q. You are one of the Assemblyman's constituents? A. Yes.

Q. And you are a member of the New York Bar? A. Yes.

Q. An attorney and counsellor at law? A. Yes.

Q. And have been for how long a time? A. Since 1890.

Q. And your office is where? A. 115 Broadway.

Q. Do you know Assemblyman Waldman? A. I do not know Assemblyman Waldman, but I have heard him speak.

Q. Where have you heard him speak? A. I have heard him speaking on the corner of Tenth street and Second avenue, and I have heard him speak on Second avenue at different places. I think I heard him speak once at 110th street and Fifth avenue, if that is the location where the Socialists speak, somewhere right around there. It is on that circle, 110th street.

Assemblyman Cuvillier.— You would know him just the same?

The Witness.— Oh, yes.

Assemblyman Cuvillier.— Do you see him here?

The Witness.— Yes, sir.

Q. What were the occasions when you heard Mr. Waldman speak? A. Well, the last time I heard him speak I think was in the Fall of 1918, I cannot exactly identify the time, but it was the same time that Scott Nearing was running for Congress, and I am quite sure that was in 1918. At that time he was talking at the corner of 10th street and Second avenue.

Q. And these places where he talked, what kind of meetings were they? A. They were Socialist meetings.

Q. Can you give us some idea of the conditions prevailing at the place where these speeches were made? A. Well, as far as 10th street and Second avenue is concerned, I can give you a very good idea of that, because that was one of the districts in which I had been sent by the director of the draft to inspect the district in regard to the draft proposition there. In that district, or rather, at Avenue A and 10th street, which is only a few blocks away from there, 54 per cent. of the men between 21 and 31 had claimed to be aliens. Of course,—

Mr. Roe.— I object to this. Nothing of this kind is in the charges here. It is not suggested anywhere in the charges.

The Chairman.— It is a matter of preliminary proof. I will take it for what it is worth.

A. (Continuing.) In that way I got to know the district very well because I was sent up in order to investigate the Draft Board, 117, I think, which was showing in proportion to its number of registrants very few men who were subject to the draft.

Q. Acceptable for military service? A. Acceptable for military service.

Q. The district to which you referred is one having a large alien population, and the claims were being made showing they were neither citizens of the United States or declarant aliens?

A. That is so, sir.

Q. I am directing your attention particularly with the atmosphere of the meetings themselves; will you give us some idea of the meetings? A. I would like, if I may, go further into that district, explain that the registration for the men who had become twenty-one in June was demanded, circulars were thrown down from the roofs stating, or requesting —

Mr. Roe.—I object to the answer. It is not answering the question. It is not responsive to any question that has been asked.

Mr. Conboy.—I assume that I have the right to object to anything that is not responsive.

Mr. Roe.—I did not object to the question. Now the witness is going through an entirely different subject, and had you asked him a question which would have called for the answer your question would have been objectionable and I would have objected to it.

The Chairman.—Come down to Mr. Waldman's situation. You are an attorney. You can keep within the rule.

The Witness.—Mr. Waldman was making a speech on the corner of Tenth street and Second avenue. In this speech he was advocating the same old slush which —

The Chairman.—One moment. One of my colleagues suggests that I am wrong and I will allow you to proceed.

The Witness.—At that time in that district when these boys were supposed to register in June —

By Mr. Conboy:

Q. That is June 5, 1918, the second registration? A. The second registration.

Q. Those who had become of age, who had reached the age of twenty-one years between the time of the first registration on June 5, 1917, and June 5, 1918, were required to register? A. They were required to register. At that time, when this registration was to take place in that district, they were throwing circulars

down from the roofs, telling the boys not to register, as they could not be caught if they did not register.

Q. You have seen those circulars? A. I don't know if I saw the circulars or not. I know there was at that time —

Mr. Roe.— I move to strike out the witness' answer, in which he assumes to state the contents of these circulars. He now says he never saw the circulars.

The Chairman.— Let him go ahead.

A. (Continuing.) There was a strong suspicion at that time that the Socialist Party had advocated —

Mr. Roe.— Must we submit to this — a strong suspicion?

The Chairman.— That may go out.

Mr. Block.— This man, your honor, is supposed to be a lawyer. He ought to know better.

The Chairman.— But they always say lawyers are the poorest witnesses. Objection sustained.

Q. Now, will you come to the address that you were about to tell us of that was being made by Mr. Waldman on that occasion?

A. At that time Mr. Waldman was talking the usual Socialist patter in regard to internationalism, capitalist war, and that sort of stuff. By internationalism I understood he meant this —

Mr. Roe.— I object to what the witness understood him to mean. Let him state what he said.

A. I cannot state absolutely what he said, but this is the substance of what he said: He stated that the laboring men owed no duty to any country; that the laboring man only owed a duty to a class; and he went on further and stated this was a capitalistic war and all the trimmings that go with that.

The Chairman.— You may strike that out.

Mr. Conboy.— Strike out the trimmings.

The Witness.— I asked him —

The Chairman.— Go ahead.

The Witness.— I asked him a question. I asked him whether he opposed the draft or whether he advised anybody to oppose the

draft. He answered me that he refused to answer that question because he was afraid of being arrested; and he further stated, "they can't get me anyhow." I subsequently asked him whether, in case the doctrine of the Socialist party conflicted with the Constitution of the United States, he would stick by the Socialist party or stick by the United States, and he gave me the same answer, "I refuse to answer that question because I do not wish to take a chance of being arrested."

Mr. Conboy.— You may cross-examine.

By Assemblyman Cuvillier:

Q. Did he say anything about being drafted himself? A. As I say, he said, "you can't get me," and I inferred from that that he meant that they could not get him in the draft. At that time I think he was an assemblyman.

By The Chairman:

Q. Let me ask you: While these papers were being circulated, that had some information on them to somebody—no matter what they were—from the roofs of the houses, was it on that occasion that Mr. Waldman was making a speech? A. No, sir.

Q. When was it? A. It was subsequent to that.

By Assemblyman Cuvillier:

Q. How long subsequent? A. I cannot absolutely identify the time it was, but I think it was in September; and that happened in June.

By Mr. Conboy:

Q. There was another registration in September, was there not, Mr. Bunzl? A. My impression is it was June. If there was another registration—

Q. There were three registrations in 1918: June 5, 1918; August 2nd, 1918, and September 12, 1918? A. I think it was the August registration that I referred to before.

By Assemblyman Cuvillier:

Q. Was this the only occasion you heard him speak? A. No, I have heard him speak several other times.

Q. Whereabouts? A. Along at 10th street and 2nd avenue, twice. I could not state the number of times I heard him. At one time my duties were—I was down there for practically three

months in that district, and I used to listen. Then after that I used to go there every once in a while to the draft board which I had been inspecting, and I used to listen to all these orators on the street corners. I am very sure I heard him up at 110th street and 5th avenue once, which is the greatest assembling place up there.

Mr. Conboy.— You may cross-examine, Mr. Stedman.

Mr. Stedman.— Mr. Roe.

Cross-examination by Mr. Roe:

Q. Mr. Bunzl, where was it that you said you were listening to speeches for three months? A. I did not say I listened to speeches for three months.

Q. Well, I understand you to say that you frequented some neighborhood for about three months, listening to speeches; is that right? A. You misunderstood me.

Q. Well, what did you say with regard to three months? A. I said for three months I was in the neighborhood, and frequently I listened to speeches while I was in that neighborhood.

Q. Now, what neighborhood was that? A. In the vicinity of 10th street and avenue A.

Q. And were you located there during those three months? A. I was not located there; I was an inspector of the draft board, and inspected the board there, and in order to get there I had to go over from 3rd or 2nd avenue to get to avenue A, and going home I would very frequently walk over to 10th street and stop at 2nd avenue and listen to the slush that was being distributed by the Socialist orators at that time.

Q. And that continued for a period of about three months? A. And subsequent, as I said. After I had gotten that draft board into such a condition as Mr. Conboy thought fit, I would every once in a while go over to see that it remained in that same condition.

Q. Well, then, do I understand that for about three months you were going down into this district and inspecting this draft board? A. I was down there every day for three months.

Q. And was it your object to listen to the speeches or to inspect the draft board? A. When I went to the draft board I did not listen to the speeches, but when I listened to the speeches, I usually turned ill.

Q. You usually turned ill? A. Yes.

Q. I am seriously trying to find out from you — A. You would not think so from the way you are interrogating me.

The Chairman.—Well, now, you lawyers will have to confine yourselves to strict rules.

Q. I am seriously trying to find out from you the object of your visits to this locality for a period of three months. I take it you did not live there? A. I usually was inspecting the draft board there. The clerk had been crooked, and I threw out the clerk there and for three months I practically ran the draft board.

Q. During those three months you were almost daily at this place in attendance upon the draft board; now, is that correct? A. That is correct.

Q. And during the course of that period you stopped and listened to speeches down in that neighborhood; is that a fair statement of your position? A. Yes, sir; and I will go further than that, that after I left the Adjutant General's office I went out for the National Security League and I frequently went down to 10th Street and Second Avenue, and I may have heard them at that time. I cannot identify the time absolutely.

Q. And you went to the place you mentioned — A. Sometimes and spoke myself for the National Security League, in order to uphold patriotism as against traitorism.

Q. Now will you fix the date? A. It was prior to the election of 1918.

Q. How much prior? A. I should say it was either in September or October; I could not identify the date absolutely.

Q. Well, was it the three months immediately prior to the election of 1918, this three months' period that you have been telling us about; it is rather important to fix the date. A. I have not stated I went there alone those three months but I have stated I had been there at other times. My work in 1917 I think took up February, March and April, when I was down there — no, March, April and May. After I had finished that up I used to go down there about once in every two weeks to see how things were running down there. Then after I quit the Adjutant General's office, which I think was in October, I used to go down to the National Security stand at 10th Street and Second Avenue, and if they didn't have any speakers, — because I didn't wish to speak myself, — I used to speak from that platform, but ordinarily I used to go down there more with the idea of hearing what the Socialists were saying in order to combat them.

Q. I will come to that in just a moment; you still haven't answered my question as to whether this period of three months that you have spoken of—you said it was before the election of 1918—you haven't said whether it was the three months immediately before that. A. I have stated to you absolutely it was not absolutely the three months before the election of 1918.

Q. Now, about how much before? A. It was about, I think it was in 117, in March, April and May; then I quit going to 117 except about once a week, and I kept going once a week until I terminated, or practically once a week—it might be once in two weeks—until I terminated my connection with the Adjutant General's office.

Q. Yes, sir; you have told us that three times. A. Well, you have asked me three times.

Q. Was the time that you have testified to here when you heard Mr. Waldman's speech within this three months' period that you were attending upon the Draft Board? A. Upon what Draft Board?

Q. The Draft Board that you said that you were inspecting there for a period of three months? A. No, sir.

Q. Was it before or after that? A. After that, after the three months, but I was going to that until October, I was going there at least once a week, or the end of September, anyhow.

Q. About how many Socialist speeches did you hear during this period that you have spoken of, this three months' period and the subsequent period when you were going down there? A. I suppose I have heard forty or fifty or maybe 100. That is, I didn't hear all of the speeches. I used to listen to a little of their twaddle and then move away.

Q. You are not a Socialist? A. I believe in Socialism, but not in any traitorous party which calls itself a party.

Q. You think the Socialist Party of America is a traitorous party? A. Yes, sir.

Q. How long have you held that view? A. Ever since the platform of 1917, which stated this was the most unjust war that ever was waged, advised everybody not to buy Liberty Bonds and went on further with that sort of twaddle.

Q. Prior to that time you had not regarded the Socialist Party of America as a traitorous party? A. I didn't know there was any such thing as the Socialist Party of America. I knew there was a Socialist party.

Q. Prior to 1917 you didn't know there was a Socialist party? A. Of America? I knew it was, or there was a Socialist party, I knew there was a Socialist party, and likewise there was a Labor Socialist party at that time.

Q. My question is whether prior to the adoption of this platform in 1917 you regarded the Socialist party in this country as a traitorous party? A. I did not.

Q. So that you got your impression with regard to the character of the party from the St. Louis platform? A. Not alone from the St. Louis platform but from hearing socialist arguments that were advanced from **street corners**.

Q. But prior to or subsequent to the adoption of that platform? A. I said that prior to the adoption of that platform, I did not believe it was a traitorous party. I believed with a great many of its views.

Q. But you also stated that you formed that view, if I understood you, and you will correct me if I misunderstood you. I understood that you formed your view that it was a traitorous party when it adopted the St. Louis platform? A. I did, sir.

Q. That is correct? A. Yes, sir.

Q. What is there in that platform that led you to believe that the socialist party was a traitorous party? A. The statement that this war was the most unjust war that was ever waged. The statement that we should repudiate all Liberty Bonds. If you will show me the platform—I cannot remember them—there were four planks in that platform that were absolutely traitorous.

Q. Can you remember any others? A. If you will hand me the platform I will remember it.

Q. But if it made such a deep impression on your mind, to convert you that it was a traitorous party, or that it was a traitorous party amongst our midst, you do not need the platform to remind you? A. Mr. Roe, your memory may be very good, and mine may be very poor.

Q. The two planks in the platform that you remember, then, is the one which you say states that people should not buy Liberty Bonds? A. I did not state that.

Q. Will you state what the plank is, in substance, in that platform, with regard to Liberty Bonds that you object to? A. The plank which I object to is that Liberty Bonds should be repudiated.

Q. What time was that platform adopted? A. In 1917.

Q. And in what month? A. I have forgotten the month.

Q. And what was the plank about war that convinced you also that was a traitorous party? A. It stated a most unjust war that was ever waged.

Q. Now you know, don't you, that there is nothing in that platform about repudiating Liberty Bonds? A. Well, it may not be in those words, but in substance it is.

Q. You know at that time there wasn't any Liberty Bonds? A. Well, there was a proposition to issue them, I suppose.

Q. There wasn't any proposition before this country at the time of this platform being adopted about issuing Liberty Bonds at all? A. May I ask if you have a copy of that platform here?

The Chairman.—It is in evidence here.

Mr. Roe.—It is your good fortune, or misfortune, at this time, that I am examining you. Will the question please be repeated?

(The stenographer reads as follows:)

“Q. There wasn't any proposition before this country at the time of this platform being adopted about issuing Liberty Bonds at all?”

Mr. Roe.—Was there?

The Witness.—I may be in error. It may have been in the 1918 platform.

Q. Will you tell me where the 1918 platform was adopted, and what the substance was on that subject? A. The 1918 platform, I think, was adopted in St. Louis. I am not an expert on socialism. I know my own impressions on that thing, and I know they are correct, and as far as absolute dates are concerned, about what the platforms hold, I cannot answer them. I can tell you about what they did hold, and what I considered traitorous parts of those platforms.

Q. That is what I am inquiring about, and I was inquiring particularly about the provision of Liberty Bonds. I ask you now if you wish to modify your answer in any way, because I wish to be perfectly fair with you, when you said there was any reference in the Socialist platform in 1918 on the subject of Liberty Bonds? A. I do not know about 1917 or '18. I know in one of the platforms there was a statement about Liberty Bonds. Furthermore, your standard bearer, Mr. Hillquit, advised everybody not to buy Liberty Bonds.

Q. That statement in the platform that you referred to, as you stated, was that Liberty Bonds should be repudiated? A. That is my recollection of it. I may be in error. I am not infallible.

Q. And your recollection about that is just as good as your recollection about anything else you testified to? A. Yes.

Q. Anyhow, that made a very deep impression on your mind, didn't it? A. Yes, sir.

Q. Now, will you tell me what the substance of the plank in that platform was in regard to war? A. The substance in regard to war was — Now, I wish to modify all my statements in saying I do not know what the socialist party of America is. That may be a different socialist party from the socialist party that got out this platform in St. Louis. That may be an entirely different proposition, but I am talking about the socialist party in St. Louis.

Q. Now, go right on from there. A. The statement in that platform was in regard that this was the most unjust war that was waged, that could be waged.

Q. Yes? Now, you are sure that is in the platform, are you? A. Yes.

Q. You cannot be mistaken about it? A. I cannot be mistaken about it.

Q. And was it any evidence to your mind that this was a traitorous party that it adopted a platform saying that this war was the most unjust war that was ever waged? A. Yes, sir.

Q. Are you aware that President Grant said that the Mexican war was the most unjust war that was ever waged by a strong nation against a weak one? A. He did not state that while we were at war.

Mr. Stanchfield.— I object to that line of inquiry as not proper cross-examination.

Mr. Roe.— On that point, your Honor, I do not wish to take up time on discussion — it goes to this witness' bias. It is perfectly legitimate cross-examination in any court in the world. This witness has testified here evidently with the very greatest bias, and I am entitled to cross-examine him to determine the extent of it, and the cause of it and the results of it.

The Chairman.— Well, in the first place, Grant was a captain in the war, and it was Lincoln that said it.

Assemblyman Cuvillier.—How do you know that Grant or Lincoln said it, either?

The Chairman.—Never mind it.

Mr. Roe.—Because it is in the writings of both of them.

The Chairman.—Well, go ahead; I thought I would correct your error.

Mr. Roe.—I appreciate your good intentions.

The Chariman.—I apologize; go on.

Mr. Stedman.—Both of them said it.

The Chairman.—Well, go on, then proceed.

Mr. Roe.—Will you repeat the last question, please (addressing the stenographer). (The reporter read as follows):

Q. Were you aware that President Grant said that the Mexican war was the most unjust war that was ever waged by a strong nation against a weak one? A. He did not state that while we were at war.

By Mr. Roe:

Q. He did not state it after the war, as you know, in his memoirs? A. If you say so.

Q. Well, would the fact that he stated that, taking your statement for it, after the war, would you believe that he was in any way disloyal to his country?

Mr. Stanchfield.—I object to that.

The Chairman.—That is pretty far fetched. But I will overrule it.

Mr. Roe.—Will the stenographer repeat the question?

(The reporter repeated the last question.)

The Witness.—Well, that would require some deliberation. I am inclined to think that he stated it after the war, and I do not think he was disloyal to the country.

Q. That is, you think that a man might honestly believe that a war upon which we were entering was the most unjust war, and yet that his duty to his country would require him not to say it, is

that correct? A. Why, if war had been pronounced — if war was actually warfare, if we were engaged in actual warfare, any man who attempts to interfere with our victory is a traitor to his country.

Mr. Roe.— Yes, I wanted to get your idea of it.

The Chairman.— That is, you mean after the declaration of war?

The Witness.— I mean, after the declaration of war.

Assemblyman Cuvillier.— I guess we all agree with that.

The Witness.— Except, possibly, Mr. Roe.

Mr. Roe.— I certainly do not want to go on record as agreeing with that.

The Chairman.— All right.

Q. Taking a case when the war is in progress, then you are aware, of course, that Mr. Lincoln while a member of the House of Representatives in the very height of the Mexican War voted for a resolution declaring that the Mexican War had been unnecessarily and unconstitutionally begun? Are you not?

Mr. Stanchfield.— Now, I object.

The Chairman.— Sustained. We have gone pretty far with that thing anyhow. You are cross-examining your own witness now.

Mr. Roe.— But I am not. This is not my witness.

The Chairman.— Well, go on, go ahead.

Mr. Roe.— I am not offering this witness before this Committee.

The Chairman.— Well, go on.

Mr. Roe.— All right.

By Mr. Roe:

Q. Let us be clear about this. No matter how unjust a war may be after your country has once declared it, is it your view that any man or woman who asserts it is an unjust war and ought to be brought to a conclusion, is a traitor to his country? A. If this is not in the St. Louis platform, I do not see why you ask me.

Q. Will you answer my question? A. Yes, sir, I do think he is a traitor to his country.

By Mr. Roe:

Q. And that view you have colored everything that you heard said by these different Socialists in these meetings? A. It colored nothing.

Q. But you had that point of view at the time you listened to all they said? A. I did.

Q. And you interpreted everything that they said in the light of that point of view on your part? A. I did not.

Q. But you thought that if a Socialist, after the war was declared, or anyone else, ventured to stand up and say that this was an unjust war, that he must be a traitor to his country? A. Yes, sir.

Q. No matter how honest his convictions might be as to that fact? A. Yes.

Q. And no matter if it was an unjust war? A. Yes, sir.

Assemblyman Cuvillier.—And if he did it in the army he would be shot, too.

Mr. Roe.—Well, at the present time we are not in the army.

The Witness.—A whole lot of people did not get into the army that should have.

The Chairman.—Now, gentlemen.

Assemblyman Evans.—You are a judge here and you ought not to express any opinion while you are sitting in the trial of a case. Wait till it is over and then we will talk about it.

By Mr. Roe:

Q. Now, Mr. Bunzl — did I get the name right? A. Yes, you got the name right.

Q. You told me that down in this neighborhood where you visited so frequently you heard some forty or fifty different Socialist speeches; is that correct? A. Yes, sir.

Q. Over a period of about what time? A. Over a period of seven or eight months, I guess.

Q. Now, have you given the Committee all that you can remember distinctly as to traitorous utterances, that you heard

during those forty or fifty speeches of the Socialists covering this period of some seven or eight months? A. The ——

Q. Just answer that question. A. There were no really traitorous utterances made. If I had heard any, I would have pulled the man off the stand.

The Chairman.— That may go out. You may answer yes or no.

The Witness.— Repeat the question.

(Last question read by reporter.)

A. No.

By Mr. Roe:

Q. Have you told the Committee — I mean the counsel for the prosecution here, all that you heard during that time? A. Are you referring to what I heard about Mr. Waldman?

Q. No, I am referring to what you heard in these forty or fifty speeches, and your answer is no? A. No.

Q. Now, have you told the prosecution in this case all of the traitorous utterances that you heard from the Socialists during these meetings? A. I have not seen the prosecution at any time prior to my entering this hall. I spoke to Mr. Conboy here for about one second. I wrote to Mr.——

Q. You were going to say you wrote to Mr. Conboy? A. I wrote to Mr. Conboy on Friday, sent him a letter in which I stated this in regard to Mr. Waldman.

Q. I am not asking you what you stated; you came into this case by writing Mr. Conboy a letter? A. He telephoned to my office this morning asking me to come up here and I came up.

Q. Telephoned to your office in New York? A. Yes.

Q. By the way, where is your office in New York? A. No. 115 Broadway.

Q. Now, will you state to me just exactly what it was that Mr. Waldman said in this speech which you regard as traitorous? A. Well, to begin with he stated — I am giving you the substance. Of course, I cannot remember, word for word, but the substance of his statements was this ——

Q. First I will ask you, there were police in attendance at the meeting? A. There was one policeman in attendance at the meeting.

Q. Wasn't there more than one? A. It is very rare that you have more than one policeman, unless it is a National Security League meeting down there. The Socialists don't require any. They are in the majority. The statement that Mr. Waldman made was this, a statement in regard to internationalism, that the laboring classes owed no duty to the country in which they were, that the only duty which they owed was the duty which they owed to the class itself, putting it in a rather bright way; that the laboring class was a citizen of the country that it hangs its hat up in and owes no allegiance to it, and owed allegiance alone to the working classes and that these classes should unite, the working classes of Europe and the working classes of the United States should unite and show their power. He likewise stated the proposition which was so thoroughly thrashed out by the Socialist orators that it was a capitalistic war, that the reason that we were at war was because Morgan had loaned money to England, that the DuPonts were making powder, that the powder factories and the big manufacturers wanted this war, and for that reason we had this war. All the way through there were insinuations of such a kind that although —

Q. I am asking you to state the substance. A. I am stating the substance.

The Chairman.— You asked him to state the substance. You are getting the answer now and you are finding fault with it.

Mr. Roe.— He is giving insinuations.

The Chairman.— Strike out insinuations.

The Witness.— All the way through you could see —

The Chairman.— That may go out. Give the substance.

Q. Have you given the substance of it? A. Yes, sir.

Q. You do not pretend to repeat his exact words? A. Oh, no; that would be impossible.

Q. This occurred, this speech, in September or October? A. 1918, I think. I am not sure. It was in September or October of that year when Nearing ran for Congress.

Q. Some year and a half ago? A. No, that would be more than a year and a half ago.

Q. Over two years ago?

Mr. Conboy.— No, if it was in the fall of 1918, a year and a half is about right.

Q. Well, whatever it was, it was one of forty or fifty speeches that you were hearing along about that time, is that correct? A. Yes, sir.

Q. You didn't write down what you heard? A. No, sir.

Q. There wasn't anything said, I take it, that you regarded as a violation of the law? A. No, sir.

Q. If there had been you would have interfered, wouldn't you? A. Yes, sir.

Q. The policeman would have interfered? A. No, sir.

Q. Don't you think the policemen of the city of New York do their duty? A. They do their duty, but they don't understand what a violation of the law is, otherwise a great many of these Socialist orators would have been yanked off the platform.

Q. I regret that I didn't have you to cross-examine the last two witnesses for the prosecution. A. They weren't passing on legal propositions; they were passing on whether they should be beaten up or not.

Q. But whether the policemen know a violation of the law or not when they see it in New York, you are convinced there was no violation of the law in anything you heard Mr. Waldman say or you would have interfered? A. I would have interfered. There was innuendo but no absolute violation.

Q. You say your business is that of a lawyer? A. Yes, sir.

Q. You were born in this country? A. Yes, sir.

Q. What did you say your connection was with some organization? A. I didn't say I had any connection with any organization.

Q. Have you? A. Yes, sir.

Q. Are you a member of the National Security League? A. I am.

Q. And you have been paying particular attention to the activities of the Socialists in New York, have you not? A. Not to any great extent since 1917.

Q. But you were during that time? A. Up to 1917, I was.

Q. Do you mean — A. Up to the end of 1917 I was very active in the speaking bureau of the National Security League.

Q. Speaking against the Socialists? A. Well, in 1917 — let's see — yes, speaking against the Socialists.

Q. And you spoke against Mr. Waldman, did you not? A. I did not; at that time I did not know Mr. Waldman personally. I spoke against the Socialist Party.

Q. You went in his district and spoke against the Socialist candidates there, did you not? A. That depends on when Mr. Waldman was running.

Q. In 1918 — campaign of 1918. A. I went in the campaign of 1918. For the greater part of that time I was connected with the Adjutant General's office. That lasted until the end of September. I think I went out to the country and I think I came back in October and I think I spoke once.

Q. I am really not asking you that. A. I spoke against Mr. Waldman personally. I spoke against the Socialist Party in 1918.

Q. And you spoke at Tenth and Second avenue? A. Yes.

Q. Now, you say you dropped your activities against the Socialists about the end of the year 1917? A. Yes, sir.

Q. Why was that? A. Because I was appointed inspector of draft and didn't have time.

By Mr. Roe:

Q. But as a member of the draft operation, were you not interested in the activities of the Socialists at that time? You may not be aware that if you are attending to your duties as inspector of draft, you are busy thirty hours a day pretty nearly.

Q. I served on a draft board myself. A. You may have served on a draft board, but you were never sent down to the draft boards I was sent down to.

Q. I had a very pleasant location in a federal building. I think that is enough.

Mr. Conboy.—Did you say, Mr. Roe, that you had served on a draft board?

Mr. Stanchfield.—That is what he said.

Mr. Conboy.—Did you say you had served on a draft board?

Mr. Roe.—I said that in company with many other attorneys, I served in assisting the board.

Mr. Conboy.—Were you a member of a local advisory board?

The Chairman.—Strike all that out as immaterial. The stenographer will strike all that out. It is entirely immaterial.

Mr. Conboy.—Well now, the Chairman says that the activities of Mr. Roe are not matters we are concerned with in this inquiry.

Mr. Roe.—I am not on trial yet.

Mr. Conboy.—I am sure you will never be, Mr. Roe.

Redirect examination by Mr. Conboy:

Q. Now, Mr. Bunzl, in connection with the features of the platform of the Socialist party, that you have been referring to, may I direct your attention and inquire into the parts that you have in mind? On page 454 of the record I read from the platform of the Socialist party—

Mr. Roe.—Wait a minute. I object to this.

Mr. Stedman.—And you are not reading from the platform, either.

Mr. Conboy.—I am reading from the first manifesto, passed in April, 1917, by the Socialist party, after the declaration of war.

Mr. Roe.—Well now, your honor, that is in evidence,

Mr. Conboy.—Of course, it is in evidence.

The Chairman.—Is there any new matter? If so, he may ask the question.

Mr. Roe.—You would not go on and read that into the record again.

The Chairman.—He may ask the question. This gentleman was confused about what it was. He knew there was something somewhere that he opposed as traitorous.

The Witness.—As traitorous.

The Chairman.—They are trying to clear up that situation, and they have a right to. It is a matter you brought up yourself.

Mr. Conboy.—I won't be very lengthy.

The Chairman.—I do not care to hear a long examination.

By Mr. Conboy:

Q. I will ask you if you had in mind these provisions from the manifesto of the Socialist party, adopted subsequent to the declaration of war, in 1917: "We brand the declaration of war by our government as a crime against the people of the United States and against the nations of the world." Is that one of the things that you had in mind? A. That is one of them.

Q. And "In all modern history there has been no war more unjustifiable than the war in which we are about to engage." A. That is one.

Q. "No greater dishonor has ever been forced upon a people than that which the capitalistic class is forcing upon this nation against its will." Is that another one? A. That is another one.

Q. Then again: "We pledge ourselves to the following course of action: Continuous, active and public opposition to the war through demonstration, mass petitions and all other means within our power." Is that one of the other portions? A. That is.

Q. "Unyielding opposition to all proposed legislation for military or industrial conscription. Should such conscription be forced upon the people, we pledge ourselves to continued efforts for the repeal of such laws and to the support of all mass movements in opposition to conscription." Is that another? A. Yes.

Q. "We pledge ourselves to oppose with all our strength any attempt to raise money for payment of war expenses by taxing the necessities of life or issuing bonds which will put the burden upon future generations"—did you have that in mind? A. Yes.

Q. Did you have this in mind in the platform of the party, the manifesto and part of the immediate program: "Resistance to compulsory military training and to the conscription of life and labor?" A. Yes.

Q. And repudiation of war debts? A. Yes.

Mr. Conboy.—That will be found on page 462 as a part of the platform of the Socialist party.

The Chairman.—Is that all?

Mr. Conboy.—That is all.

Mr. Stedman.—There is just a question or two on this.

Mr. Roe.—I want to ask one question.

Cross-examination by Mr. Roe:

Q. I will just call your attention to this language: "The Mexican war is a calamity, born of slavery, base in object, atrocious in beginning, immoral in all its influence and prodigal of treasure and life. It is a war which must blot the pages of our history." Is there anything in the Socialist platform more denunciatory of this war than that language was of the Mexican war? A. Abraham Lincoln, in my mind, never would have made that statement if the war had been going on.

Q. Will you answer my question? A. I will answer it that way and refuse to answer it in any other way.

Q. That statement was made on November 5, 1846, in Tremont Temple, Boston, in the very height of the Mexican war, not by Abe Lincoln, but by Charles Sumner, who was at that time a Senator of the United States. I now inquire whether there is anything in the Socialist platform that you find more objectionable, in denunciation of a war, than the language I have just read you, delivered in the very height of a war in which we were engaged? A. Yes, sir.

The Chairman.—Is that all?

Mr. Stedman.—No. New matter has been brought out.

By Mr. Stedman:

Q. Conscription was not in existence at the time of the platform in April, 1917. The conscription law was passed afterwards, was it not? A. I will have to take your word for that. I do not know.

Q. Well, you are familiar with when the law was passed for conscription, the first registration? A. My recollection of these dates is not good.

Q. Was it not on May 16th, that that was passed? A. I am not sure whether it was or not. I think it went into effect May 18th.

Q. It was passed May 16th and I think it went into effect June 5th; the first registration was June 5th. A. At that time I was not connected with the Attorney-General's office.

Q. Then I will make it hypothetical. Assuming that the Draft Act had not been passed on April 7, 1917 — that it was passed some time after — and at that time Charles E. Mason, with a couple of sons in the service, and Sam Sherwood were opposed to the draft, and no less than Champ Clark making a statement similar, against conscription — the ex-Speaker of the House, Champ Clark — assuming those facts, would you then regard those statements of the Socialists, and that language of Champ Clark's, or Mason's or Sherwood's, as indicating an unpatriotic declaration? A. I have no knowledge that that declaration was made.

Q. I am assuming that in my hypothetical question. A. In your hypothetical question?

Q. In my hypothetical question I assume the platform was — A. If the platform was passed before the conscription law, they had a perfect right to advocate it.

Q. Resistance to the law? A. Not resistance to the law.

Q. Or to the draft? A. They had the right to oppose the passing of that law, but they had not the right to resist it.

Q. You distinguish between opposition and resistance? A. Yes.

Q. All right. At the same time you will recall that President Wilson suggested that the war — or previous to that — should be paid for as it went along. Assume, now, that a party declares that the war should be paid for by the levying of taxes sufficient to pay the war debt as we proceed, levying no burden on future generations, and for that reason bonds issued should not be paid, would that change your mind? A. I could not assume anything of that kind, knowing the enormous proportions of the expenditures that arise through war nowadays.

Q. Would it change your mind if you knew that at the Peace Conference the subject of repudiating the war bonds was under discussion?

The Chairman.— I am going to shut off this cross-examination, whether counsel wants to or not.

Mr. Stedman.— May I ask one more question — they can object and cut it out if they want to; that is the only one.

The Witness.— I wish you would remember that I am not an expert on these matters.

By Mr. Stedman:

Q. I want to ask you just one more question and will take your ruling on it. The statement has been previously made that the capitalist class were dominating in drawing the United States into war, a war which was regarded as unjust. Do you know of any instance where they have omitted to state the facts in their possession openly? A. I really do not get your question.

Q. Well, the Espionage Act was passed June 15, 1917. That made it impossible for any Socialist to state the fact openly that the dominating influence was commercial, in drawing the United States into the war; and I asked you, in view of that, if you know of any instances where they have been permitted to state the facts, outside of quotations from the army journals, to the effect that we must go into the war for industrial reasons? A. Why, I cannot state it exactly. Of course, I have heard so much of this stuff all the time; but it is my impression that every time that I pass by; that every time I heard one of these speeches; that all the way through the war they were always declaring that this was a purely industrial war; that it was capitalistic war and that the working men were being exploited in this war in the same way they had

been exploited at different times, and that the war would not benefit the workingman at any time.

Mr. Stedman.—That, of course, is different from the other. Counsel misunderstood my question, but I will wait for the other witnesses.

The Chairman.—All right. Is that all of this witness?

Mr. Conboy.—That is all, sir.

Mr. Stanchfield.—Before you adjourn, Mr. Chairman, I want to call your attention to the fact that we shall apply to you for an open commission to take the testimony of the witness in Milwaukee, to which I have called attention of counsel upon the other side, and Mr. Berger will confer with anyone he desires to designate to represent him.

The Chairman.—Will the papers be ready to sign tonight?

Mr. Stedman.—I will give you the agreement as soon as I know who the witness is.

Mr. Conboy.—And we can take his testimony before a Notary Public?

Mr. Stedman.—If he is in Milwaukee, I assume you can.

Mr. Conboy.—In view of the fact that his wife is dangerously ill, he is unable to be present.

Mr. Stedman.—Give me the name of the witness first.

The Chairman.—We will adjourn until 10:30 tomorrow morning.

(Whereupon, at 6:05 P.M., a recess was taken until Wednesday, February 4, 1920, at 10:30 A.M.)

STATE OF NEW YORK — ASSEMBLY CHAMBER

In the Matter of the Investigation by the Assembly of the State of New York as to the Qualifications of Louis Waldman, August Claessens, Samuel A. deWitt, Samuel Orr and Charles Solomon to Retain Their Seats in Said Body.

THE CAPITOL,
ALBANY, N. Y., *February 4, 1920.*

Present:

Hon. Louis M. Martin,
Hon. George H. Rowe,
Hon. James M. Lown, Jr.,
Hon. Edmund F. Jenks,
Hon. Edward A. Everett,
Hon. William A. Pellet,
Hon. Edward J. Wilson,
Hon. Charles M. Harrington,
Hon. Harold E. Blodgett,
Hon. Theodore Stitt,
Hon. Louis A. Cuvillier,
Hon. Maurice Bloch,
Hon. William S. Evans.

Appearances:

For the Judiciary Committee:

Charles D. Newton,
Elon R. Brown,
Henry F. Wolff,
Archibald E. Stevenson,
John B. Stanchfield,
Arthur E. Sutherland,
Samuel A. Berger,
Thomas F. Carmody,
Martin Conboy.

For the Socialists:

Seymour Stedman,
S. John Block,
William Karlin,
Gilbert E. Roe,
Walter Nelles.

LOUIS M. MARTIN, Chairman.

(The Committee met pursuant to adjournment at 10:40 A. M.)

The Chairman.—Are you ready? Proceed.

Mr. Stanchfield.—I would like to say to the Committee that we will apply to the Chairman for the issuance of a commission to take the testimony of the witness to whom we referred yesterday in Milwaukee and ask for and prepare process for an open commission in which of course the other side are permitted to join and will be notified of its execution.

Mr. Roe.—I think perhaps you are laboring under a misapprehension, Mr. Stanchfield, pursuant to the arrangement made with the court.

Mr. Stanchfield.—No, I am not laboring under any misapprehension. We endeavored through a representative of our forces to agree with you and I am informed that you insisted on being made acquainted with the exact evidence we desire to procure.

Mr. Roe.—You are misinformed, Mr. Stanchfield.

Mr. Stanchfield.—I cannot be very well misinformed because that is exactly what was told to me by Mr. Berger.

Mr. Roe.—What took place was this: We met last evening and agreed between us—there was perfect understanding about it—that Mr. Berger would write out and submit a statement of what it was expected to be proved by this witness and I stated that upon the submission of that we would either enter into a stipulation agreeing to the facts as stated or else join in a stipulation to take the deposition.

Mr. Stanchfield.—I don't see that that differs at all.

Mr. Roe.—I am sure that Mr. Berger will agree that that was the understanding.

Mr. Berger.—I didn't understand you wanted us to write out in detail what testimony we expected to prove.

Mr. Roe.—You understood, didn't you, that you were going to write out and submit to me a statement of what that witness was to testify to, that you were to submit that statement this morn-

ing and then if we agreed upon it there was no necessity for taking the deposition. If we did not agree on it then the deposition would be taken.

Mr. Berger.— If you will admit the facts that we seek to prove it may not be necessary.

Mr. Roe.— How can we know what facts you seek to prove until we are advised of it?

Mr. Berger.— I did not so understand it, Mr. Roe. That was not the impression I got.

Mr. Roe.— Why, Mr. Berger, you cannot be mistaken about that, sir. You left with the statement that you would submit to me in writing the substance of what it was proposed to prove by this witness.

Mr. Berger.— I didn't so understand, Mr. Roe.

Mr. Stedman.— Is it agreed to now?

Mr. Roe.— Would you mind stating what your understanding was?

Mr. Stanchfield.— No one is trying to put you in any embarrassing position. That is not a lawyer's way of doing things, anyway. We have refrained and I do now from stating what we expect to prove by that witness. I have the evidence in my hand at my command. I do not state it because I do not think it is fair to the party interested but if we handed you a detailed statement of it you couldn't and wouldn't consent to it. Therefore, I go back to the proposition that the only orderly way to accomplish it is to have a commission issued asking this witness to relate the testimony we expect him to give. We cannot furnish it to you in advance.

Mr. Roe.— I am not questioning at all your right to proceed in the manner you are proceeding. I simply am objecting to the position that I am being put in here.

Mr. Stanchfield.— I am disclaiming putting you, Mr. Roe, in any position that is embarrassing or awkward.

Mr. Roe.— If the fact is that Mr. Berger's agreement was overruled by counsel why not make that statement frankly.

Mr. Stanchfield.— I didn't understand from him.

Mr. Roe.— There is no possible doubt as to what occurred between Mr. Berger and myself.

Mr. Berger.— There isn't the slightest desire to place you in any embarrassing position. I possibly misunderstood what you stated. We were only together about half a minute. We were to meet again this morning.

Mr. Roe.— We agreed to come up at a quarter past ten.

Mr. Berger.— Yes and I was there until almost half past ten.

Mr. Roe.— You certainly won't deny that there was a distinct agreement between us last night. You stated in a general way what you expected to prove by this witness and there was a distinct agreement that that should be submitted in writing this morning and we should have the opportunity to agree to it and save the trouble of taking a deposition.

Mr. Berger.— I emphatically deny I distinctly stated what we expected to prove by this witness.

The Chairman.— Why not stipulate for a commission?

Mr. Stedman.— I appeal to the Chairman in this way. Here is a man whose testimony they desire. We have his name. His name is Mr. Harris. He was formerly employed on the Milwaukee Leader, now on the Milwaukee Journal, a writer of the Leader in a sense that he represented the Journal at the convention in Chicago of the Socialist party, at which time, as near as I have been able to ascertain, Mr. Harris came in contact with Mr. Waldman; heard, perhaps, any statement he may have made there. I can see no reason of going to the expense of a thousand dollars, and putting the assemblymen here to an expense of sending a person to Milwaukee, or engaging the service of one there, to take a statement which they may be able to make here, and which we may be able to admit. That is the point I have to make. It is not a case of where there is any chance of surprising us. In the first place, he is a witness; their witness; hostile to us; hostile to our movement; hostile to the paper, so there is no way for us to modify any statement he might have to make, even if it could be done. I can see no reason why they should not state it, then there is no cause for delay, and it can be put in in a few minutes.

Mr. Stanchfield.— In response to that question, Mr. Chairman, I will read precisely what we expect to prove by Mr. Harris in Milwaukee, and that is, that on the floor Mr. Waldman, one of the five men —

Assemblyman Cuvillier.— What floor?

Mr. Stanchfield.— Floor of the convention.

Assemblyman Cuvillier.— What convention?

Mr. Stanchfield.— Socialist convention in Chicago.

Assemblyman Cuvillier.— What date?

Mr. Stanchfield.— On the 5th of September, 1919, and the phraseology used in the remark by Mr. Waldman, according to the testimony we wish to elicit from Mr. Harris is as follows: "If I knew we could sway the boys when they get guns to use them against the capitalist class, I would be for universal military training."

This statement was made on the floor of the Socialist Party convention by Delegate Waldman, New York, discussing the resolution condemning military training adopted by the convention.

Mr. Stedman.— We will stipulate.

The Chairman.— What?

Mr. Stedman.— To take his deposition, if Mr. Harris wants to swear to that remark. We will stipulate to take his deposition.

The Chairman.— Very well. Well, then, prepare your papers, so that we can have them ready to sign today.

Mr. Conboy.— We now call for the production of the New York Call, of the issue of February 10, 1912, pursuant to the subpoena duces tecum that was served upon an officer of the Call.

Mr. Block.— Mr. Chairman, no subpoena duces tecum has ever been served upon any officer of the Call to produce the issue of February 10, 1912. I deny that. Furthermore, Mr. Berger stated yesterday that a subpoena duces tecum had been served on Mr. Irvin, the editor of the Call. I deny that according to information given me on the 'phone last night. Although

no subpoena was served on the Call to produce that, I have made an effort to get it; but I am informed by Mr. Irvin that there is no copy of February 10, 1912, in the office, with the exception possibly of some bound copy that may be found upon a search. It is eight years back and the Call has changed its quarters once or twice. I will hear during the day, perhaps, whether or not they have found a copy of that date.

The Chairman.—I suppose they are laying a foundation for secondary evidence.

Mr. Block.—If they have only a clipping, we may possibly be willing to admit that it is a clipping from a paper.

Mr. Conboy.—You anticipate, however, that some time during the day you will have information as to whether the Call of that issue will be produced?

Mr. Block.—I will have information as to whether or not they have been able to find a copy of The Call of that date. If they find it we will see that it is here.

Mr. Conboy.—I understood from Mr. Stedman that he had wired for it, or would wire.

Mr. Block.—I wired and telephoned for it.

Mr. Conboy.—Then I am sure you gentlemen have done everything in your power to secure the production of it, and that you have been unable to do so.

Mr. Stedman.—I told you that we would, and I told Mr. Block to take care of the matter.

The Chairman.—Proceed.

PETER W. COLLINS, recalled, testified as follows:

Direct examination by Mr. Conboy (continued):

Q. Mr. Collins, in addition to the methods that you referred to in your testimony yesterday, what other methods have Socialists, to your knowledge, advocated to bring about in the United States the Socialist international revolution? A. A pronounced disrespect for the Constitution of the United States; the frequent and oft-repeated declaration that it was a mere scrap of obsolete paper; that it had no binding force on the American people and consequently no binding force upon the Socialists;

a disrespect for religion and the Commandments—the Ten Commandments.

Mr. Stedman.—Mr. Chairman, I want to object to the introduction in this case of a religious bias and prejudice at this time. Politically and otherwise the introduction of differences in religion leads to nothing but bitterness and unreasoning anger and conduct born of prejudice. These persons, whether they believed in one creed or another, had a right to; these men had a right to believe in theosophy, Catholicism, Protestantism, any one of the denominations, or Mohammedanism. In my judgment, it is no element in this case. We are not on trial here for any system of theology at all. The purpose of this is very obvious; it is to appeal to the most unreasoning state of mind which any man can possess, that of pure faith; it is an attempt to bring prejudice against these defendants outside of the merits of their qualifications, outside of the economic theories; in other words, to judge them purely from the standpoint of faith. It is unfortunate that it is ever brought into any judicial or political proceeding of any kind or character. It leads nowhere for definite progress, and it should not be brought in in this proceeding. We have had enough, in this country, of religious differences as a means and methods of influencing political possibilities.

Mr. Conboy.—It is not intended, Mr. Chairman, to go into any question of religious differences. It is intended, however, to support the charges that are indicated in the statement of the Chairman, appearing on page 8 of the printed record: "That these men are engaged in a conspiracy to subvert the due administration of law; to destroy the right to hold and own property; to weaken the family tie; to destroy the influence of the Church; to overturn the whole fabric of a constitutional form of government." That is the statement of part of the issues, made by the Chairman of this Committee, and contained in this record. As counsel for the Committee, we are required to introduce evidence upon the issues. We do not intend to go into any question of religious belief, but we do intend to show beyond peradventure of a doubt that the Socialist movement is opposed to all religion and regards religion as the antithesis of Socialism.

Mr. Stedman.—That may be in counsel's mind. If it is, they have shown wonderful ingenuity of selecting persons of one particular religion most antagonistic to the Socialists, as their experts, and as their advocates upon this subject. Have you got

Presbyterians? Have you got theosophists? Have you got Episcopalians? Those who have in a sense supported the Socialist movement? By no means. You select one who is affiliated with an organization whose avowed object, as a religious precept, is opposed to the Socialist movement. That is what you do; and you have shown it in the conduct yesterday. There is no use in camouflaging. What you are attempting in this proceeding is this, to appeal to misguided Catholics to make it a religious issue against Socialists, and you are disguising it so the man who runs can see.

The Chairman.—All remarks bearing on the religious proposition are stricken from the record.

Mr. Stedman.— I would like mine to stand.

The Chairman.— It stands out on both sides. The question is this: This gentleman's views as to what Socialism does — he is speaking as, I might say, an expert in giving his views on that proposition. His views on that proposition may be entirely different than anything the Committee have in mind. I do not see any harm in letting him express what his ideas are, or his ideas may be far from what we conceive the matter to be. I cannot see how it is going either to help or hinder the investigation in any particular way.

I would like to have it appear also that where counsel states that it is the **statement** made by the Chair, the statement that was read at the commencement of the proceeding, was read as a statement submitted as the Chair understood the allegations, not as the Chair stated that they were, but as he understood them to be. I do not care to have it entered in the case that I subscribed to all charges that were made in the initial proceedings.

Mr. Conboy.— I did not intend to suggest that you did, Mr. Chairman. I merely attempted to indicate an answer to the objection made by counsel that we have placed before us a definite program, and that we were required to introduce evidence upon the statements or issues that were framed for us in that statement. Of course, if with an allegation of that kind upon the records, we introduced no evidence in support of it, it might be very well said that allegation was in support of it, and, therefore, there was the answer, no evidence was submitted.

Mr. Stedman.— If a witness takes the stand and testifies that in such a proceeding of the convention of the Socialist Party, local,

national or international, there is a specific declaration, especially in the United States, against any denomination, or all denominations, any religion or system of theology, that is another thing; but I am objecting to a witness taking the stand, and because he has talked with some one, or heard some one in the Socialist Party, who is of different religious views than his, or no religious opinion, or a man in the Republican Party who may be an atheist or may be an agnostic, or theosophist, I object to those views being brought into this discussion based on a conclusion and drawn from it.

Assemblyman Cuvillier.— We do not know what his views are or his religion. You may know.

Mr. Stedman.— You may not, but I do.

Assemblyman Cuvillier.— He is testifying on Socialism.

Mr. Stedman.— I am not surprised at what the Assemblyman does not know what this witness testifies to and his views; that does not surprise me at all.

The Chairman.— This is an expression of opinion of the gentleman. You may proceed. It is his own views of it.

Mr. Block.— I would like to ask if it is the understanding of the Chair that an expert witness may give an opinion as to facts not proven in the record. It seems to me any expert witness must do so upon the state of facts.

The Chairman.— Oh, well, we did that all day here. I am going to let him state.

Mr. Conboy.— Now, will you read me, please, the answer of the witness up to this point where we had the discussion? Perhaps, Mr. Collins, you know the point at which you were interrupted by the objection of Mr. Stedman?

The Witness.— In my answer to the counsel's question I said that I had heard and had come in contact with antagonistic expressions to the Constitution of the United States by the leading members of the Socialist party of America and other Socialists— this is amplifying the question—that the Constitution of the United States was an obsolete scrap of paper, and that as it wasn't respected by the American people there wasn't any particular reason why it should be respected by Socialists, and that there was a disrespect of religion and the Ten Commandments.

Q. What about the family relation? A. Not only in my contact with the Socialists by means of joint debates with many hundreds of them and many thousands of questions during many years, not only by my reading of all the authorities of Socialism from Marx and Engels, Liebnicht and Dietzgen, LaSalle, Babel, Trotsky, Abeling, Fogg, Heinman, Duval, Woris and Kester down to Lavale and Troty and Ferry, as well as the American Socialist leaders including Emmy and St. Paul, a candidate of the Socialist party for mayor whom I met in joint debate, McQuillis of Iowa, candidate on the Socialist party for Senator and also for Governor, and including those whom I mentioned yesterday, Wanhope, Warren and Cook, and the list as enumerated in that answer yesterday. I have never yet had a Socialist in either debate or contact deny or repudiate the authorities when I set them forth as showing the antagonism of Socialism to God, to country and to the labor movement, and that the great majority of the questions of debate are exactly upon that proposition—resolved that Socialism is opposed to God, country and the labor movement. I have never known of a Socialist local anywhere or the Socialist party anywhere to repudiate these doctrines although we have had frequent, a standing offer of a fairly substantial sum of money for such an action, stating for instance that we would give \$100 if any Socialist local would repudiate the action. I have attended the Congress of the Socialist party, particularly the one in 1908 or 1910, both congresses in which the discussion on the matter of religion was the most important discussion officially in the convention as borne out by the records, and in the course of that discussion the leading American Socialists, including Lewis, including Hillquit, including Berger and I believe Ghent of New York and perhaps fifty others made these statements substantially, Hillquit making this statement particularly that in response to the declaration of Arthur Morrill Lewis that it was ridiculous for Socialists as a matter of expediency and political tactics to hide the very philosophy of Socialism, which was the positive and absolute denial of a Creator and setting forth that philosophy only upon the basis that economic conditions created everything and that it would be far better for Socialists to tell the truth; Morris Hillquit replied to this fact substantially that while it is true that as Mr. Lewis has declared, 99 per cent of the Socialists are atheists and agnostics, it would not be a matter of policy to insert that in our program because it is first necessary to get the followers by means of our programs

and declaration; then afterwards we can teach them the philosophy of Socialism. That even after this discussion was carried on for a considerable period the Socialist platform was adopted by one vote only, the convention being almost evenly split with this declaration—the 1908 platform it was—that Socialism is primarily an economic movement and that religion is a private matter. That was adopted by one vote. Commenting on that I would say that if religion was a private matter it would not have been necessary to have inserted that declaration in the Socialistic platform. That remained in the Socialist platform, however, only down to until the next congress when it was entirely eliminated.

Q. Have you here a pamphlet published by the Socialist party of Great Britain on the subject of religion? **A.** I believe I have; yes, sir.

Q. Produce it, please? I will use this copy which you have produced here, Mr. Collins. **A.** I have it—here it is.

Q. In the first place, I will have this marked for identification? **A.** Yes, sir.

(Paper marked Exhibit 80 for identification, February 4, 1920.)

Q. I will ask you where you obtained Exhibit 80 for identification? **A.** From the Rand School of Socialism, New York City, and also a copy in the national headquarters of the Socialist party in Chicago.

Mr. Conboy.—Now, I offer this document in evidence. It is entitled, "Socialism and Religion." It is the second edition with preface published by the Socialist Party of Great Britain, and it is a declaration of the principles of the Socialist party with regard to religion.

Mr. Stedman.—Who is the author?

Mr. Conboy.—The author is the Socialist Party of Great Britain; sold by the Rand School.

Mr. Block.—When you say sold by the Rand School, do you mean by the Rand book store?

Mr. Conboy.—I presume I do.

Mr. Block.—That is the only book store there and it should so be called. It is a public book store.

Mr. Conboy.— It is a very complete exposition, Mr. Chairman, and there are certain features of it which will give the Committee definite information with regard to the attitude of the Socialist party on this subject, which is one of the phases of our inquiry. It has nothing at all to do with the differences of religion, does not take up the differences of dogmatic belief or creed between different religions, but states the attitude of the Socialists with regard to religion; religion being regarded as one thing and one item.

Mr. Stedman.— Mr. Chairman, this does not appear to be endorsed or the pronunciamento of any Socialist party. It does appear that it was issued and published by Henderson's, 66 Charing Cross Road, London. The subject is Socialism and Religion. I am quite willing to concede that if the position of a European party on the subject of religion, or some of its members, or even a majority, is the expression of every one upon that subject, that that is binding upon every member of the Socialist Party of Great Britain, and therefore binding upon every Socialist, and the Socialist Party of the United States, and that whether a person agrees with it or not, they are his views. Then I presume there is no reason why we should not read this entire document into the record. I will say now that I should certainly object to singling out an excerpt, a line or two from a paragraph —

Mr. Conboy.— I have offered the whole document in evidence.

Mr. Stedman.— I am objecting to it.

The Chairman.— How long is it?

Mr. Stedman.— Forty-eight pages. I will ask Mr. Block to read it from cover to cover, if you take an excerpt.

Mr. Conboy.— That should not influence the Committee, that threat that the whole thing will be read. I haven't the slightest objection to the whole thing being read from cover to cover.

Mr. Stedman.— The party that issued that is a small faction of the Independent Labor Party, which is not the Socialist Labor Party of Great Britain, and I am informed it is not even affiliated with the Socialist Party proper. Good Heavens, if you wanted, we can read 25 books on the subject. It is a controversial question in the Socialist movement.

The Chairman.— You prove now from this witness, for whatever it is worth — he has made a statement along the lines of what he claims the Socialist Party stands for. I don't see how this is —

Mr. Conboy.— The statement of counsel for these five men is that Socialism and only one phase of religion are in opposition.

Mr. Stedman.— I don't care whether it is or is not. I am not arguing the question as to whether the Socialists are favorable to religion or unfavorable to it. I maintain that is not an issue in this case. My religious or anti-religious views are my own. Independent of the party, I am a member of — and independent of this proposition — I may be a member of the church or I may not. I presume that is true of every one in the party.

Mr. Block.— And of every other party.

Mr. Stedman.— It may not be of every other party. I am not so familiar with that, judging from things here. But if this man is testifying as an expert, he can testify and give us his views and spread his imagination before us any color he wishes, under the ruling of the Chair, but if he starts reading a document I shall insist that the entire document be read. An expert does not need excerpts to balance up his testimony.

Mr. Conboy.— We have no objection to the entire document being read.

Mr. Stedman.— I objected to it because it is incompetent.

Mr. Conboy.— The excerpts I want to call to the attention of the Committee are conclusive on this phase of the question. Mr. Stedman may read what he desires, but upon this issue which has been incorporated in the record we desire to introduce evidence. This is a part of the evidence which we desire to introduce, and it is upon the proposition that Socialism is the antithesis of religion, not of any particular religion or any particular creed, or any dogma, but all religion; it is the antithesis, and this book says so, and I want to put that in the record.

Mr. Stedman.— I answer it by saying that the very fact that the book is published; I answer it by saying that the expert on the stand debated the question of God, country and Socialism, and they opposing his view, so that they had not agreed upon any definite or dogmatic political conclusion on the subject of religion.

Mr. Conboy.— But they regarded it as an expedient.

The Chairman.— I think I shall exclude the book.

Assemblyman Rowe.— Have my objection noted.

Assemblyman Cuvillier.— I dissent.

Q. Now, Mr. Collins, what have you to say with respect to the attitude of the Socialist Party of America towards the family relation? A. From my contact with the Socialist Party and its leaders and representatives, and with its official publications such as *The New York Call*, *The Chicago Daily Socialist*, the former *Social Democratic Herald of Milwaukee*,—the official organ of Victor Berger and *Socialism in Wisconsin*,—now *The Leader of Milwaukee*,—and in my contact with thousands of members of the Socialist Party and other Socialists, and in my question-bees,—you might say open forums,—whereby the majority at all these meetings, 80 per cent of the chairmen from Episcopalian bishops down to Presbyterian and Unitarian, as well as ministers of other denominations, acted as chairmen.—I have found a most vigorous antagonism expressed toward the family, the declaration being made substantially the position of Socialism as expounded by its authorities, whom I have already mentioned, and by most of the Socialist Party and other sources in America, being that the family was simply an institution of capital; that it was not an institution that was of any great age; that it was simply formed by capital and the property interests for the purpose of keeping the workers in a state of degradation for their exploitation; that when Socialism came into its own in the Socialist commonwealth that the family would vanish and disappear when its complement, capital, vanishes. In fact, LeFarge makes that statement which appears in an article printed, from his writings in the *New York Call*, of some few years ago. They think sufficient of it to have it reproduced.

Marx and Engels, in the Manifesto, distinctly declare what was the Communists—they meaning Socialists, and so being acceded to generally and universally by the Socialists today—the word being the same that the Socialist is the interchangeable term—that the abolition of the family was only according to Socialism abolition of the state of legalized prostitution; that the family simply was a state of prostitution legalized by the courts and sanctified by the clergy, and that at most what the Socialists could be accused of was that they desired to institute, instead of

a hypocritically concealed and openly legalized system of prostitution, the family, that they desired to put into effect the family without any cloak of the so-called sanctity of either the legality of it by the court and the State, or the sanctity of it by the clergy and religion. That is generally emphasized throughout the authoritative words of Socialism circulated officially by the Socialist Party as a party, at its lecture courses advertised by the party speakers, and sold by them.

Mr. Block.— I feel I must protest against testimony of this kind. I object to this man stating—

The Chairman.— Mr. Block, possibly we are not giving his testimony any more weight than yours.

Mr. Block.— You may not, and others may. When he says the Socialist Party, as such, circulates certain books he should state the books, when and where. At least he should state—

The Chairman.— Proceed.

The Witness.— I shall do so and be glad to.

The Chairman.— You may proceed.

The Witness.— The Socialist party officially circulates Frederick Engdahl's work "The Origin of Family," in which he compares, in that work, the marriage of a young man to one whom he terms an old maid, and in that incidentally remarks that such a marriage is no worse than incest. Marx's manifesto— Marx and Engdahl's communist manifesto—is officially circulated by the Socialist Party. LaFog's works are officially circulated by the Socialist Party. August Bebel's work "The Frau"—"The Woman"—is officially circulated by the Socialist Party. Robert Van Blachford's work "God and My Keeper" and Ernest Belfort "The Religion of Socialism" and innumerable other publications.

Mr. Conboy.— I offer in evidence bill introduced by Mr. Ship-lacoff, whom I believe will be conceded was at the time a Socialist member of the Assembly.

Mr. Stedman.— Read the bill.

Mr. Conboy.— No. 328, introductory number 321, "An act to amend the penal law, in relation to the prevention of conception."

Mr. Stedman.—What was the date?

Mr. Conboy.—January 24, 1917.

Assemblyman Evans.—On what theory is that admissible?

Mr. Conboy.—On the theory of the inquiry we are instituting at the present time in relation to the attitude of Socialism to marriage.

(Mark it, Mr. Stenographer.)

(Bill referred to received in evidence and marked Exhibit No. 81 of this date.)

Mr. Stedman.—Would there be any objection to our calling attention to a similar bill introduced by a Republican?

The Chairman.—If you get the bill, we will admit them both.

Mr. Conboy.—Reading Exhibit No. 81; Note: Matter underscored is new; matter in brackets is old law to be omitted):

“Section 1. The penal law is hereby amended by inserting therein a new section to be section eleven hundred and forty-one-b, to read as follows:

“Sec. 1141-b. *Exception. A book, magazine, pamphlet, newspaper or other printed, typewritten or written matter is not obscene, lewd, lascivious, filthy, indecent or disgusting or of an indecent character, within the meaning of this article, by reason of the fact that it mentions, discusses or recommends or gives information concerning the prevention of conception or methods or means for the prevention of conception, or gives information as to where, how or of whom advice concerning or articles, drugs or instruments for the prevention of conception can be obtained; and an article is not of indecent or immoral use or purpose, within the meaning of this article, because it is adapted or designed or is advertised or represented to be adapted or designed for the prevention of conception.*

“Sec. 2. Section eleven hundred and forty-two of such chapter is hereby amended to read as follows:

“Sec. 1142. Indecent articles. A person who sells, lends, gives away, or in any manner exhibits or offers to sell, lend or give away, or has in his possession with intent to sell, lend or give away, or advertises, or offers for sale, loan or distribution, any instrument or article, or any recipe, drug,

or medicine [for the prevention of conception, or] for causing unlawful abortion, or purporting to be [for the prevention of conception, or] for causing unlawful abortion, or advertises, or holds out representations that it can be so used or applied, or any such description as will be calculated to lead another to so use or apply any such article, recipe, drug, medicine or instrument, or who writes or prints, or causes to be written or printed, a card, circular, pamphlet, advertisement or notice of any kind, or gives information orally, stating when, where, how, of whom, or by what means such an instrument, article, recipe, drug or medicine can be purchased or obtained, or who manufactures any such instrument, article, recipe, drug or medicine, is guilty of a misdemeanor, and shall be liable to the same penalties as provided in section eleven hundred and forty-one of this chapter.

"Sec. 3. This act shall take effect September first, nineteen hundred and seventeen."

Assemblyman Cuvillier.— He repealed that law?

Mr. Conboy.— Virtually.

Q. Now, along that line have you the files of The New York Call, containing the matter of similar character? A. I have.

Q. Please refer to it. A. On the date of September 4, 1910, one of many articles in The New York Call, written by one of its contributors and published in the Call as a comparative article in which it ridicules —

Mr. Roe.— Mr. Chairman, I object to the statement of what it does.

The Chairman.— Well, he may state.

Mr. Roe.— I object to its incompetence; the evidence isn't material at all. The article itself is the best evidence.

The Chairman.— Overruled. I have adhered to the rule of allowing him to state the substance. This man seems well posted on all these matters and this is done to avoid that very proposition of putting the whole paper in. Now you have digested these matters and are giving us your views on the subject. Possibly they may bring someone to combat your views.

The Witness.— These are the authorities; I haven't expressed my opinion yet.

Mr. Roe.— This question hasn't been raised before.

The Chairman.— I have made a ruling.

Mr. Roe.— Here is a man with a paper before him and then proceeds to state what he calls the substance of the article.

The Witness.— I will be glad to state without looking at it.

The Chairman.— State the knowledge you have obtained.

The Witness.— This issue being one of many of hundreds of issues of the Call, containing many similar articles in which it referred scathingly to the attitude of our late lamented President, former President of the United States Theodore Roosevelt, in which he advocated large families, and denies race suicide. And this article declares that there ought to be hospitals established where women might go and have abortions performed because conception was purely a matter of accident and as a matter of fact that these accidents should not be tolerated. That while it might seem rather a harsh thing to be compelled to kill a child unborn, yet, it was hardly any worse than the statement in fact less offensive than the statement of President Roosevelt justifying the family life and the opposition to race suicide. It is quite a lengthy article. I believe if it was read in its entirety it might astound you.

Mr. Conboy.— Well, I defer of course to the ruling of the Chairman.

The Witness.— There are thousands of others of similar character.

Mr. Block.— I should like to have the date of the article the witness refers to.

The Witness.— I gave it.

Mr. Conboy.— Give it again.

The Witness.— September 4, 1910.

Mr. Block.— The title and authorship of the article.

The Witness.— The title of the article is on race suicide. The article is signed Mary Tyng.

Mr. Roe.— Then it is a signed article and not an article in the Call at all.

The Witness.— It is right in the Call.

Mr. Roe.— It is a contribution, like a letter that may appear in the New York Times.

The Witness.— All the editorials and articles are signed, and the editorials have the name at the head.

Mr. Conboy.— Yes.

The Chairman.— Proceed.

By Mr. Conboy:

Q. Now, have you heard in your debates anything as to the relations of the Socialist Party of America to the Internationale? Now then, will you tell us please, Mr. Collins, what you know with respect to the relations between the Socialist Party of America and the Internationale? A. The Socialist Party of America, just like the Socialist Party of Great Britain, which has already been mentioned incidentally with reference to the Pronunciamento officially circulated by that party, is a part of the Internationale with its delegates at the International Congresses of Socialism in attendance and has its official representatives selected by referendum vote of the Socialist Party in America, just as the Socialist Party of Great Britain just mentioned also is officially represented at its convention. It is officially a part of the Internationale.

Mr. Conboy.— Just a second, please.

The Chairman.— Now, would you tell us right in that connection what you understand to be the Internationale?

The Witness.— The Internationale itself is the International expression of the organized activity of Socialism as centralized in its International Congresses represented by the groups of all nations. For instance, here is a report of the Socialist Party delegation, the official report of the proceedings of the International Socialists' Congress of 1910 at Copenhagen, in which, by the way, Mr. Hillquit, the leading American Socialist, was present with twenty-three other delegates of the Socialist Party of America, and in which he says in that report — you can have it if you wish: "The Socialist Party of America stands in accord with the fundamental principles of International Socialism in theory and practice." Therefore, the Internationale is the representative gathering of Socialism internationally because Socialism is recognized by Socialism itself as an international move-

ment and philosophy that knows no boundaries, that knows no country, and that as Marx, Engels and Liebknecht and the other authorities I have mentioned, down to Bax, declared that the duty of Socialists everywhere is first of all to break down the barrier of patriotism and love of country so that the spirit of International Socialism might be successful. The Internationale is sometimes confused with the Internationale as first organized by Karl Marx in England in 1864 at St. Martin's Hall when Marx was organizing the Internationale there. It was then known as the International Workingmen's Association, but it was unsuccessful in gathering the working class because it was preaching the pure theosophy of Socialism, which was antagonistic to everything that the workingman stood for,—love of God, love of country and love of the labor movement, which was the expression of his honest hopes and aspirations. That International Workingmen's Association practically went to pieces and the remnants of it were brought over here to America in the early seventies as the International Workingmen's Association. That is frequently confused with the use of the word "Internationale" as referring to Socialism, so that the Internationale as referred to by Socialism is the concrete expression of world-wide Socialism as organized and represented in its International Congresses which have met in the various countries of the world.

Q. There the program is laid down for the Socialist Party every place? A. Everywhere.

By the Chairman:

Q. They refer here somewhere else to the Third Internationale; what do you mean by that? A. The Third Internationale is another expression, according to socialists, there is a difference of opinion. Perhaps Mr. Stedman stands on the declaration that there is no Third Internationale. For instance, the First Internationale is assigned, as I said, to the International Workingmen's Association established by Marx. The Second Internationale is ascribed to International Socialism before the declaration of the recent Congress of Socialism in 1917—the American Congress in St. Louis; and the new Internationale is founded upon the declaration of the official Socialist Soviet Republic of Russia; that that represents the new Internationale; that on account of the war having come and no Congresses having been held during that period, it was impossible to continue the Internationale as represented through its congresses. Therefore, when

the Socialist Soviet Republic of Russia was established — it is the official Socialist Republic of Russia, they declared for a calling of the Third Internationale, claiming that in the interim that the Internationale had been disrupted to such an extent that the only way to bring the real concrete expression of socialism up to date was to have a Third Internationale, as they called it, and they issued the call for the congress of that Internationale.

Q. That is in session? A. I would not say, on account of the chaotic conditions of Russia and the propaganda of the Russian Socialist Republic to allow nothing to come out of Russia except that which favors Socialism, and nothing to go into Russia except what favors Socialism, an abuse of which would be penalty of immediate execution — I would not attempt to say.

Q. So that this socialist party of America is not only a group of men sometimes called a political party, but a group of men that is not only organized here, but is connected up, according to your explanation, with another body, international in its scope? A. Exactly. The Socialist Party of America, while it has only had a party since practically 1901, the unity convention in Rochester, I believe, of 1900, was the cause of Socialism as a party in America; but every one, of course, knows that socialism existed in America just as it has all over the world for many years — fifty years prior to that. So that the party is only a political party, that phase of it, is only a part of the expediency of Socialists for getting followers. Now, it is comprised, first, of individual dues-paying members, who pay dues to a local unit. These local units constitute the party of socialism as represented by its congress. Delegates from that local union form the National Congress. The term "National Congress" being used officially. The term "National Convention" being used very seldom. That national congress recognizes that it is only a party of the Internationale, and, of course, subservient to the direction of the Internationale, because in all of the American platforms, declarations, and the platform declarations of every nation of the world, the national platform declarations, this declaration appears: "We stand for international socialism," which is the expression throughout the Internationale.

The Chairman.—And these local Socialistic organizations are composed in their committees, for instance, of dues-paying members, which need not necessarily be citizens of the United States.

The Witness.—Very true; in fact, I would not pretend to give a definite expression of opinion at this time, but undoubtedly the division is so close that the Socialist Party in America is officially constituted—I might say this perhaps in the absence of the record and to stand for correction if I am shown differently; it is my firm conviction—that the majority of the Socialist Party in America are aliens, not citizens.

Assemblyman Cuvillier.—Now, Mr. Collins, did you know that the German government, in 1878, on account of the violence of the Socialist Party, passed laws suppressing the Socialist Party?

Mr. Stedman.—What year?

Assemblyman Cuvillier.—1878.

The Witness.—I would not definitely state the year.

By Assemblyman Cuvillier:

Q. About that time? A. I would say that is true. The Socialists, of course, admit that.

Q. On account of violence? A. At the instigation of Bismarck.

By the Chairman:

Q. So that the Socialist Party, as you view it from your observation and study, is not an American Party, but an international party; is that it? A. The Socialist Party, not alone as I view it, but as it is.

By Assemblyman Cuvillier:

Q. It is the fact? A. It is. It is simply a part of the international. It is not an American party as an American entity.

By Assemblyman Cuvillier:

Q. As I understand the scheme, it is this proposition: that the Socialist Party, being an international, it is the purpose of taking the entire civilized world, if possible, in its destruction, and have a Socialist state: is that the idea? A. According to the Socialists, that is not only possible, but it is inevitable that they must do it.

Q. That is what they try to be? A. Yes.

By Assemblyman Evans:

Q. Mr. Collins, is or is there not any difference in your views between the Socialists International and the League of Nations?

A. Oh, entirely different. They have no similarity whatsoever. They have nothing in common. The League of Nations would be a League of Nations for the purpose of meeting to advance the progress of humanity, not to stultify the civilization of men; to help in the cause of civilization and not deny justice or the rights of all nations and their self-determination.

By Assemblyman Evans:

Q. Can you tell me why it is that Socialists violently oppose the League of Nations?

Assemblyman Cuvillier.— Why would a Republican oppose it?

Assemblyman Evans.— For a different reason.

Mr. Conboy.— I think Mr. Collins can answer that question.

The Chairman.— Yes. I think it is proper. I think Mr. Cuvillier's answer may go out.

The Witness.— I did not get it, Mr. Chairman.

The Chairman.— Proceed.

The Witness.— The Socialist Party opposes the League of Nations, properly and rightfully constituted, because a League of Nations so constituted, on the foundation that I have elaborated in my answer to your prior question, would naturally create harmony and the feelings inherent in the spirit of the brotherhood of man, founded upon the fatherhood of God; the denial of the doctrine of class antagonisms and class hatred, also, and would bring all men together on the basis of the common weal of humanity for the settling of their differences by peace and harmony and by agreement. Consequently, such a League of Nations, so constituted, would help to eliminate much of the real abuses that Socialism, while pointing out as an opportunity to make followers, and while these abuses stand, they are festering sores on the face of the body politic, although not inherent in it for its destruction; and consequently, as long as Socialism can point to evils and sores that can be eliminated by the processes that I have mentioned, of organization, legislation, socialism will not have a chance to make progress if these are abolished, and therefore, it stands against any movement, international or national, that will do away with them.

By Assemblyman Evans:

Q. Is that the Socialists' reason for the opposition? A. That is the Socialists' reason that I have frequently come in contact with and heard as an expression. I came in contact with that at the close of the war. Immediately afterwards I became Labor Extension Secretary of the League to Enforce Peace and had charge of the correspondence and the literature with reference to the conduct regarding a League of Nations before the Covenant of Paris came out, throughout the entire country, by thousands and thousands of letters, and by contact with thousands and thousands of Socialists.

By Assemblyman Cuvillier:

Q. Mr. Collins, do you know anything about the triumph of Socialism in Hungary last year, and Bela Kun, the premier there? A. I recall that I was giving a lecture in Detroit on Easter Sunday—if you will pardon the elaboration; it will only be a moment, but it will be pertinent—I was giving a lecture on Easter Sunday in 1919, in Detroit, in Arcadia Auditorium, and out of my audience there of five thousand people, jammed in the hall, at least 4,500 of them were Bolsheviks or Socialists. They immediately tried to stop me from giving my lecture and at a concerted signal—it was on this day, by the way, the announcement was made that the Hungarian Government had been captured by Socialism, by Bela Kun, the Socialist—and they immediately sang the "International," "The Red Flag" and "Down with the Stars and Stripes." Then one of their leaders, a woman, got up and said: "Do I understand you to say, sir, that you stand behind the American soldier; that you believe in him? I said: "Yes, madam, to the last drop of my blood, if necessary, wherever he goes." "Then," she said, "you are worse than a Prussian, because the American soldier is a murderer. Down with the American soldier! Up with Bolshevism!" And then immediately the Socialists stood up and said: "Now we have Hungary—it has been captured for Socialism"—and they gave three cheers for Socialist Hungary.

Mr. Stedman.—Where was that?

The Witness.—In Detroit. That was on Easter Sunday evening, in 1919. I would not set the date except by Easter Sunday.

Mr. Conboy.—Have you any questions, Mr. Stedman?

The Chairman.— Any cross-examination?

Mr. Stedman.— Yes.

The Chairman.— Proceed.

Cross-examination by Mr. Stedman:

Q. You were appointed as a member of an economic body by Judge Charles S. Dineen, you stated? A. No, sir, by Governor Charles S. Dineen.

Q. At that time Wright was President of the Illinois Federation of Labor? A. At that time Edwin R. Wright was president of the Illinois State Federation of Labor.

Q. And it was a Republican administration, and he was president? A. Just a moment, you have asked me a question. The Governor of the State is a Republican and the State officers were Republican. I believe the majority of the State Legislature were Republicans. I might say —

Q. That is a Republican administration, is it not? A. Just a moment. I have not finished my answer.

Q. I was asking you for the conclusion, not how it stood. What body were you appointed on? A. Just a moment. I have not finished my answer. When I was appointed I had never met Governor Dineen.

Q. I did not ask the witness whether he had ever met Governor Dineen or not. I asked him whether he was — whether it was a Republican administration — and he told us how the House stood and how the Government stood. These are rather preliminary anyway. What body were you appointed on? A. I was appointed on the Illinois Industrial Commission, composed —

Q. What was the business of that commission? I am not asking you its composition? A. It was composed of three representatives of labor, three representatives of the employers and three representatives of the public, and its object was to study the conditions surrounding the workers in the industries and the factories of Illinois and prepare legislation for the curing of the evils and for the protection of the health, safety and comfort of the workers of Illinois.

Q. It was to lay the basis for the adoption of a compensation law, was it not? A. No, sir, it had nothing to do with the compensation law.

Q. Was John Flora on that commission? A. No, sir; he was not.

Q. And after that you discontinued your activities in the labor movement to commence to oppose the Socialist movement? A. No; I have always been active in the labor movement.

Q. Have you strung any wire during the last ten years? A. Oh, yes.

Q. Have you been working at your trade during that time? A. Well, I wire some Christmas trees every Christmas. I might say that I also wired my house — that took several weeks — and I hold a State electrician's license from the State of Massachusetts, and this work was passed on by the State Examiner and Insurance Examiner and found correct.

Q. Then during the last 10 years your activities as a laborer consisted of wiring a Christmas tree in your home? A. As an electrician.

Q. As an electrician? A. And wiring my home.

Q. And wiring your home? A. Yes, as an electrician.

Q. We are getting along so far, aren't we? A. Yes.

Q. We are getting along nicely. Well, now, have you served as an official of your organization, your Electrical Workers' Union, during the last ten years? A. Yes, sir. I am serving now as general organizer of the Electrical Workers' Union as well as general organizer for the American Federation of Labor.

Q. How often have you been speaking against Socialists during the last ten years? A. I would say I have talked to approximately five million people and have given at least three thousand lectures.

Q. And you have been paid for them? A. I always got the union wage, except where I gratuitously gave my services in other causes.

Q. In other words, your union scale is how much a day? A. Well, the union scale in Boston is \$8 a day.

Q. In Illinois, how much is it? A. I think it is —

Q. Maybe you got the Boston scale when you spoke in Illinois? A. I always got more than the scale because I was worth more.

Q. You were worth more opposing Socialism than you were in stringing wires? A. Undoubtedly. This is the greatest job that America has on its hands today.

Q. And you are the chief apostle in this work? A. If I was not I would not be here.

Q. Now, then, as the chief apostle in opposing Socialism you made a great many speeches in Illinois, hadn't you? A. Yes.

Q. During the last ten years? A. Yes, sir; during the last fifteen years.

Q. You have probably heard of Duncan McDonald? A. Yes, his office is next to mine.

Q. He was secretary-treasurer of the United Mine Workers' of Illinois? A. Yes, and one of the greatest enemies of organized labor in the world.

Q. I know that. A. I am glad you admit it.

Q. I know that is what you think. You have been talking against Socialism in Illinois. He is now president of the State Federation in Illinois? A. Very simple matter —

Q. I am not asking how simple it is. I am asking facts. He is president now? A. I do not know.

Q. That suffices. A. You have not allowed me to answer the question.

Q. I asked you whether he was president of the State Federation of Illinois; that comes to the answer, yes or no, is he president? A. The referendum is on for the presidency of the Federation of Labor.

Q. It is at the present time? A. I do not know.

Q. You do not know he has been president for a year? A. That is another matter. Former president.

Q. He is president today. A. Re-elected?

Q. I am asking you do you know that he is not president today? A. I do not know he is not.

Q. He was elected president and he was a Socialist, and after your ten years of agitation — he is a Socialist, is he not? A. I do not know today whether he is or not. He was when I knew him.

Q. He had been a candidate on their ticket again and again? A. Do you want it explained how he became elected president?

Q. No, the fact is enough. We will not go into explanations.

The Chairman.— What is this man's name?

Mr. Stedman.— Duncan McDonald.

Q. He was secretary of the United Mine Workers at the time of the Cherry disaster? A. He was not.

Q. He was not Secretary-Treasurer then? A. He was not.

Q. What office did he hold then? A. He was a State officer in the State organization, not the United Mine Workers.

Q. I say, the United Mine Workers of the State of Illinois. A. You did not say that.

Q. Pardon me; I should have done so. A. That is only the constituent part. William Green was Secretary-Treasurer.

Q. That was the United Mine Workers of America? A. The only United Mine Workers.

Q. And the United Mine Workers' organization is an organization on the theory that the man at the tippie, the cage man, the electrician, the man at the bottom, and working in the entries, and at the wall facings are all members of the same union; is that not true? A. It is not.

Q. Do you mean to say that at a mine, I will say in Illinois or Ohio, that all the employes at the mines are not in the same local union of the miners? A. They are not.

Q. What ones are not? A. Well, the engineers and frequently the electricians have their own organization. The teamsters —

Q. Do you mean —

Mr. Conboy.— Had you finished your answer?

The Witness.— I had not. This gentleman does not always want information and does not allow me to answer the question.

The Chairman.— Proceed.

A. (Continued). In Illinois and in other states in the Union there are trade unions with their own identity that are not of course a part of the United Mine Workers of Illinois in mine work.

By Mr. Stedman:

Q. Will you please tell me of a single mine in Illinois from the Actua to the Siegel mine, where all the men in that mine consisting of all the men from the man at the tippie to the man at the bottom are not in the same union? Tell me one? A. I am not quite as familiar with the big mines, of the five or six hundred mines of Illinois.

Q. I am not asking you all of them, tell me one? A. I believe in the mines surrounding the Congdon mine in Sangamon county —

Q. Tell me one?

Mr. Conboy.— He is telling you.

Mr. Stedman.— He is talking about mines that surround Sangamon county. He is telling somewhere about where they are located.

The Witness.— I will leave what I am naming to the jury.

Mr. Stedman.— Of course you will, but give us the name of one mine.

The Witness.— I am giving the Congdon mine, the McColvin mine, and the Barry mine.

Q. Where is the Congdon mine located? A. Not far outside of Springfield, Ill.; that is one. I was there. My impression is that it was close to Springfield. There were men in the mines working belonging to the respective trades that were not mine workers.

Q. When? A. Very frequently.

Q. When? A. During this period.

Q. Tell me the time? A. I went to Illinois, my office was moved from Washington in 1906, in May of 1906; I was in Illinois from May, 1906, until May, 1912 —

Q. Your office was in Springfield, Ill. A. My office was in Springfield, Ill.

Q. In Sangamon County? A. In Sangamon County.

Q. And there is a mine underneath the highways of Springfield? A. There are fifty mines running under the highways of the city.

Q. There is one very much near — A. I have just said there are at least fifty mines.

Q. Name at least one? A. I couldn't offhanded name them.

Q. You live in Springfield with the mines under the streets and cannot name one? A. Yes, but I never was in it.

Q. It takes some courage to go down there? A. Not a bit. I have been in mines deeper than in Springfield; I have been in the copper and gold mines. I cannot recall the name just now.

Q. Do you know whether or not in any mine that is operated in Springfield, where the men are not all affiliated with the same local and in the same local that operates the mine? A. I repeat again, if you want a repetition of the question, I will continue to repeat, that in the mines given around Springfield, whatever their names are, there are men working, electricians, engineers, and frequently teamsters, that are not members of the mine workers' organizations, but members of the respective trade unions.

Q. When you say frequently, you apply to teamsters. I assume that applies to your electricians you speak of? A. Oh,

certainly it applies to them, because all mines are not constantly at work.

Q. And that applies to Springfield particularly, does it not?

A. Not necessarily, to all mines throughout the country.

Q. Well, the theory of all the men belonging to the same union is what is known as an industrial union, is it not. A. It is not.

Q. An industrial union, then, you say is not a union where all of the men in the same industry are affiliated with the same labor body, is that right? A. It is not.

Q. Will you now define an industrial union? Please don't state its objects, but how it is organized. A. An industrial union in the conception, and the actual practice of the labor movement, apart from Socialism's definition of an industrial union, is that men who work in an industry — for instance, there might be 100 different trades in a particular industry — the steel industry may have its steel workers, it may have its electricians, it may have its teamsters, it may have its rollers, it may have its open hearth men, it may have its laborers belonging to the industry; whatever the industry is, the trades in that industry make up what is called the industrial department of the labor movement. They belong to their separate internationals, which, by the way, are only American organizations, I mean not outside of the United States and Canada — not in the same relation of the Internationale, as with reference to Socialism. They have no organization outside of the United States and Canada. They are made up into International unions, that is national unions. The term "International" is a misnomer there, outside of Canada, and there autonomy is in connection with their own International, and that is the industrial union from the labor movement standpoint.

Q. The United Mine Workers is not an industrial union according to your conception? A. No; you say the United Mine Workers is composed of one local irrespective of the trade.

Q. Is the United Mine Workers an industrial union or organization? A. The United Mine Workers is not in the conception of the term as understood by trade unionists an industrial union.

Q. Is the Amalgamated Garment Workers an industrial union? A. Not in the sense that the trade union movement organizes it.

Q. Are they craft unions? A. Trade unions.

Q. Is the Mine Workers a craft union? A. The miners is a craft union, yes, trade union.

Q. Is the Amalgamated a craft union? A. The Amalgamated is not affiliated with the American Federation of Labor.

Q. I didn't ask you that. A. It is not; it is an outlaw organization.

Q. Is it a craft movement?

The Chairman.—He said it was not.

Q. Is it an industrial union? A. So that there may be no confusion about the terms, and so that the record may read properly to those reading it,—

Mr. Stedman.—May I suggest, Mr. Chairman, that we cut out the speech and get an answer once in a while.

The Witness.—It is purely an answer, so that it won't be misunderstood.

The Chairman.—The difficulty about it is, I suppose Mr. Stedman is entitled to a concrete answer. Then the attorney who put the witness on the stand can make a note of those questions which you desire to fully explain and that may be done when you come to your re-examination; so that your counsel will **take note of that and bring it out.** It will save a lot of time, that's all. I can see how you and Mr. Stedman will become hopelessly involved.

The Witness.—We won't; we will go right along. So that you won't confuse the word "craft," let me say I am speaking of trades unions as applied to the American Federation of Labor, because there is no other labor movement in America.

By Mr. Stedman:

Q. Now, we will start out and assume there is not; so there will be no confusion, what I want now is a definition which will give us the distinction between the craft union and the industrial union. A. The trade union recognizes—

Q. Pardon me; I will say craft union. A. There is no such thing as a craft union.

Q. If there is not then I am not calling on you to define something that does not exist; we will just keep to the things that do exist. A. All right.

The Chairman.—He says there isn't any such thing. Go to your next question.

Q. Have you followed the co-operative movement? A. To some extent.

Q. Do you know who is the President of the wholesale and affiliated co-operative stores of the United States? A. I believe that the candidate that opposed Duncan McDonald, President of the Illinois State Federation of Labor, John H. Walker; am I correct?

Q. You are correct that he opposed him, but do you not know that Duncan McDonald is President of the National Co-operative Wholesale and all their various stores in Seattle and Chicago and also all their subordinate stores? A. No, I do not.

Q. You have not followed that then? A. I said I had not.

Q. Have you addressed a large number of meetings during the last ten years in Pennsylvania? A. Yes.

Q. You have heard of Jim Maurer, have you not? A. Another enemy of America.

Q. I didn't ask you that. A. Yes, I have heard of him.

Q. You have heard of James Maurer, have you not? A. Yes, sir.

Q. How long has he been President of the State Federation of Labor of Pennsylvania? A. Oh, I would say perhaps ten years.

Q. He is a Socialist? A. Yes, sir.

Q. And you have been campaigning in that State too? A. Yes, sir.

The Chairman.—Who is he?

Mr. Stedman.—James H. Maurer.

The Witness.—James H. Maurer, not a workingman.

Q. Do you mean to say he was not a workingman? A. He was an employer.

Q. Where was he in an industry? A. He was in the plumbing business with his brother. He was the silent partner that furnished the capital.

Q. That you know? A. That I am affirming.

Q. You draw a distinction between what you affirm and what you know; what you affirm is what you want people to accept as a statement based on conviction and what you know is what you have actually seen or felt? A. No, there are some things I know that I do not affirm. I not only know this but I affirm this.

Q. I ask you now do you swear that Jim Maurer ever had a financial interest in any enterprise that employed anyone? A. I know I am under oath, and to the best of my knowledge —

Q. I am not asking you that; do you know it without any qualification? A. To the best of my knowledge and belief, yes.

Q. You know that to the best of your knowledge and belief you can state anything you wish and it does not constitute perjury. A. I do not know that, but I would not perjure myself anyway.

Q. Now then, do you know it? A. To the best of my knowledge and belief I do. The best evidence I can give is founded on my knowledge and belief.

Q. By the way, what is the Socialist definition of capital, and then your authority for it? A. The Socialist definition of capital is that part of the wages of labor that have been robbed from the worker. That usually is the one given by Marx — from Marx down.

Q. Now, then, will you please tell me where I can find that definition? A. Well, you will find it in "Marx on Capital."

Q. Can you pick it out? A. I would not try it offhand.

Q. Can you tell whether it is in the first volume or the third? A. I would not say, offhand, definitely.

Q. Your definition, then, of capital — A. You asked me generally.

Q. — is the surplus product which constitutes the difference between that paid to the worker and that for which the product is sold? A. You were not asking my opinion. You asked me what the socialist opinion was, and you did not ask about surplus value. You asked about capital.

Q. I did not say anything about surplus value. Do you realize the difference distinguished by noted writers on economics, have different definitions for capital? A. Oh, undoubtedly.

Q. For instance, there is the difference between Adams Smith, Mills and Henry George and the Socialists. Now, what I wanted from you was the Socialist definition. Are you satisfied with the one you have given? A. Concretely, yes.

Q. And you think it is complete? A. Yes, generally, from every standpoint. That is a —

Q. You have mentioned — A. Just a minute, let me amplify it.

Q. I see. A. Again it is that part of the wealth that has been accrued by the exploitation of the workers to make more wealth, according to Socialists.

Q. You think a toothbrush, then, is capital — a man that has a toothbrush home, that constitutes capital? A. You are asking me?

Q. Yes, sir. Would you consider that capital from the Socialist standpoint? A. No, unless the result of the use of the toothbrush brought something that was to be used for sale.

Q. In other words, if a man rented his toothbrush it would constitute capital, because it would constitute capital? A. That would be one, but that was not the intent. The result of excessive labor, if the product was produced and sold, that would be capital.

Q. In speaking of classes, do you understand that classes are created by analyzing their structure and function in society? A. Am I to understand you to say — you ask my opinion or the opinion of the Socialist?

Q. I am asking that from your opinion. A. That classes are created?

Q. Do you understand that classes are created by calling attention to their structure and function in society, or do they come in existence through a social evolution and change? A. Classes exist,— if anything exists, the fact that somebody calls attention to their existence does not bring about their existence, any more than, for instance, the denial that the sun is the center of the universe would stop the sun from being the center of the universe.

By Mr. Stedman:

Q. But you do not agree that there are classes? A. Oh, there are classes, distinctions, perhaps divisions; not classes in the sense that Socialism speaks of.

Q. I am speaking of groups with antagonistic economic purposes. A. Not inherently, outside of manufactured ones.

Q. You think that the slaves in the south and the slave owner had no economic differences inherently, only manufactured by Phillips and a few other agitators? A. I think the slavery of the South and ancient Greece was just as abominable and —

Q. I am asking whether the slave in the South and the masters had the same economic interests? A. According to Socialism they couldn't have the same economic interests.

Q. I was asking your opinion? A. My opinion is, of course, slavery is not justifiable.

Q. In your opinion, did they have the same economic interest? A. Not at all.

Q. Then there is or there was among the slave owners and the slave an economic antagonistic interest, is that true? A. As individual, naturally.

Q. Well, a thousand slaves all working had the same economic interest, hadn't they? A. Oh, no, their interest might be entirely different. For instance, one slave might have charge of other slaves.

Q. Let's change the illustration. A. I get your illustration all right. I know what you are after.

Q. I will withdraw the illustration. We will assume in this room we have, dividing this aisle over here, Catholics, Protestants, A. P. A., all the different religions, Blacks, Whites, Yellows, Irish, Jew, Yankee, English and they are all workingmen together by the day. They have one object in common and that is to get more wages and work less hours, haven't they? A. They might have that object.

Q. As a group. We are calling them in from the nations. There you are. Mike, Jones, and some others; you all want more pay? A. Not necessarily.

Q. Not necessarily as a group? A. Because their conditions might be entirely different.

Q. If you offered these workingmen on this side of the hall an increase of pay, they would refuse it? A. You are taking a condition that cannot exist.

Q. You mean to say that the trade union is not going to introduce in its program more wages, less hours, better conditions of employment, sanitation in the shops? A. That is only a part of the program.

Q. That part is in its program? A. That part is in its program but it is not a prime part.

Q. Did you ever know them to disagree with the employers' association on anything except hours, wages and conditions of employment? A. Oh, positively.

Q. Have you ever seen them disagree with employers on religion? A. On a hundred different things.

Q. Did you ever see the workingmen disagree with their employers through their representatives on religion? A. The question never came up. They had more sense.

Q. Did you ever hear them disagree on the question of ethics?
A. Oh, certainly, just like you disagree on the question of ethics.

Q. Tell us now one instance where ethics or morals were the basis of disagreement between employers and employees? A. You would have to first give me your definition as a Socialist of ethics and morals because I cannot define something that you as a Socialist cannot believe in because Socialism denies ethics and morality.

Q. You believe in it and I am accepting your term. You tell me of a controversy involving a difference between ethics as a source of disagreement between employers and employees and tell us where it took place? A. Oh very frequently.

Q. When? A. For instance—well ethics is the science.—I would consider this sort of fair interpretation of ethics—that ethics is the science of relations of men, their conduct to each other, their right relation as human beings in society and as creatures of a Creator.

Q. All right. A. That the employer as an individual might have a warped opinion or way in the conduct of his life that the worker would not agree with and that as a result of this conduct on the part of the employer not in keeping with ethics and morality, that a conflict arose because of that conduct of the employer in his relations with the men entirely apart from the question of wages, and hours, and labor.

Q. Can you tell me of a single instance where there was a strike, a lock-out, a meeting of a committee representing the workers and the employer, meeting in shop, council-room and saying "Now, Mr. Employer, we disagree not on wages, not on hours, not on pay, not on sanitation, not on safety, not on child labor, not on high cost of living, not on any economic subject, but we now come in here because you, Mr. Employer, and we workingmen disagree on an abstract moral or ethical proposition." Can you tell where it took place? A. Where workingmen struck for the refusal of the employer to discharge men who were morally culpable because they had abandoned their wives in some other city, and where they have struck because the employer refused to float the American flag over his establishment; and I can give you instances where they have struck because they would not work with men who were not morally fit to associate with decent men and women.

Q. Is that your answer? A. Yes, sir.

Q. Where is an instance which took place where they struck because—yes, I would like to know the location where they

struck because a man left his wife? A. Well, we have had a number of strikes in the electrical workers; while I was international secretary we had it in San Francisco.

Q. What union in San Francisco? A. No. 13.

Q. No. 13 struck because the employer employed a man who had left his wife? A. That is one instance.

Q. Do you remember the name of the employer? A. That was while I was international secretary. I couldn't remember off-hand.

Q. You remember the incident but not the employer's name? A. I ought to because I helped bring it about. I was international secretary.

Q. Did you support the strike? A. It was only incipient. The employer immediately discharged the man.

Q. It wasn't a real strike? A. Yes, it was a real strike.

Q. I thought you said it was incipient? A. It was brought about on the notification of the employer. There wasn't any conference except the notification of the employer. The period was very short; the men went back to work.

Q. Well, you don't, at the present time — A. (Interrupting) Do you want the flag incident?

Q. You don't believe at the present time there are any classes?

Mr. Conboy.— Do you want the flag incident?

Mr. Stedman.— When I wish to ask questions, I will do so and the witness need not debate with me. We are not having a debate.

Q. You do not believe in the existence of classes in the United States now, do you, economic classes? A. Not in the way Socialism believes in them.

Q. I ask if you believe in the existence of economic classes? A. There are economic divisions and groups. The reason I use that term is because Socialism has applied to the general class an interpretation that does not exist.

Q. If it does not exist, it won't harm anyone. Assume that a group means persons of the same economic aim and object as distinct from a group that has another aim and object. Do you believe those exist? A. To a certain extent there are groups with different names and objects but not essentially conflicting —

Q. Groups not conflicting — A. Not as Americans.

Q. Not as Americans, but as free traders and protectionists and such conflicts are only political? A. It may be a matter of expediency.

Q. Shutting out a competitor — A. And giving the competitor more profits if the group wants to do that.

Q. Yes, we organize to give our competitor more profits. A. The Socialists always do it.

Q. We organize to give our competitor more profits, not to give yourself more profits? A. Hillquit owns five hundred thousand. You have got your share. (Laughter.)

Q. You find it and I will divide it with you. (Laughter.) A. You are asking for a thousand dollars a day in collections from among the workers.

Q. I haven't, you are mistaken now.

The Chairman.— I guess that is getting personal now.

Mr. Stedman.— He is quite welcome. I am not objecting to it.

Assemblyman Bloch.— Before taking a recess, I would like to spread a motion on the minutes.

Mr. Chairman, I fully realize that under the rules of evidence that the testimony of any witness unless a party to the crime is admissible without corroboration.

However, the story related under oath yesterday by the girl Chivers was obviously impossible.

It is incredible that a man before an American audience during war times and in the presence of three men of the uniformed police force of the city of New York would dare spit on the American flag; it is miraculous that he lives to-day. It is so utterly absurd that it needs no further characterization.

Her statements under oath that fifteen United States soldiers meekly and humbly accepted insults to their flag, their uniform or to themselves staggers belief. It does not seem credible; it shows that the witness romanced.

I therefore move that the testimony of the girl Chivers be stricken from the record.

The Chairman.— Motion denied.

Mr. Block.— When a witness comes here he should remain on the stand until he is finished, otherwise he should not take the stand.

Mr. Conboy.— This is a mere suggestion for the convenience of the witness, that we continue now as long as the Committee desires to sit before lunch, and when the Committee adjourns Mr. Collins be permitted to keep his engagement this evening and return to-morrow morning. There is nothing unreasonable about this request and I think it ought to be granted.

Mr. Stedman.— I will say that: I have talked with my associates and I will not oppose. Mr. Collins will be back to-morrow, but I do want to say this, that I can finish with Mr. Collins much more rapidly if he will try to answer the questions. First, he places an interpretation on the question. In other words, he puts his own interpretation on a question and then answers. The effect is he does not answer the question.

The Chairman.— The difficulty is that Mr. Collins does not quite understand. You are to answer by yes or no, and your counsel can go on.

The Witness.— If he puts the question direct I will answer it.

Mr. Stedman.— You must remember, Mr. Collins, that we do not debate the questions.

The Chairman.— The proceeding will recess until two o'clock.

(Whereupon, at 12:35 P. M., the Committee recessed until 2 o'clock P. M.)

AFTER RECESS

(After recess, the Committee met pursuant to adjournment at 2:15 P. M.)

The Chairman.— Mr. Rowe.

Mr. Rowe.— I wish, Mr. Chairman, that the record indicate my protest against the unwarranted statements made by Assemblyman Bloch at this morning's session in reference to Miss Chivers' testimony.

His arrogance in attempting to formulate the opinion of that part of the evidence for the members of the Committee is what I object to.

Mr. Chairman, I for one feel that this Committee and its individual members are as capable of determining the probability of evidence and the credibility of witnesses as is Mr. Bloch.

I protest against his characterization at this time of the evidence as absurd, or of a romancing nature.

I also wish to state that Mr. Bloch's statements preliminary to his motion are a reflection on the Committee and the innumerable members of the Assembly who are sitting in this chamber.

I, therefore, move that the statements made by Mr. Bloch in connection with Miss Chivers' testimony be expunged from the record.

The Chairman.—The motion before the Committee in eliminating the statement is as follows: "By Mr. Rowe: I move the statements made by Mr. Bloch in connection with Miss Chivers' testimony be expunged from the record." On that motion the Clerk will call the roll.

The Clerk.—Mr. Martin.

Mr. Martin.—Aye.

The Clerk.—Mr. Rowe.

Mr. Rowe.—Aye.

The Clerk.—Mr. Lown.

Mr. Lown.—Aye.

The Clerk.—Mr. Jenks.

Mr. Jenks.—Aye.

The Clerk.—Mr. Everett.

Mr. Everett.—Aye.

The Clerk.—Mr. Pellet.

Mr. Pellet.—Aye.

The Clerk.—Mr. Wilson.

Mr. Wilson.—Aye.

The Clerk.—Mr. Bloch.

Mr. Bloch.—Mr. Chairman.

The Chairman.—Mr. Bloch.

Assemblyman Bloch.—I object to the motion of Mr. Rowe feeling, as a member of the Committee, I had the right to make the motion, I thought advisable at that time, or any time, during the proceeding.

The Chairman.—And your vote is in the negative?

Assemblyman Bloch.—My vote is in the negative.

The Clerk.—Mr. Harrington.

Mr. Harrington.—Aye.

The Clerk.—Mr. Blodgett.

Mr. Blodgett.—Aye.

The Clerk.—Mr. Stitt.

Mr. Stitt.—Aye.

The Clerk.—Mr. Evans.

Assemblyman Evans.—Mr. Chairman.

The Chairman.—Mr. Evans.

Assemblyman Evans.—The motion by Mr. Bloch is wholly improper. No member of the Committee should express his opinion on the record as to the credibility of a witness. I took exception to Mr. Cuvillier doing that yesterday. I take exception to Mr. Bloch doing that today. As a matter of law, no testimony can be stricken out as incredible, and for that reason it is for the Committee to determine its credibility. For that reason I vote in favor of the motion.

The Chairman.—The Clerk will announce the result.

Assemblyman Cuvillier.—I didn't vote yet.

The Clerk.—Mr. Cuvillier.

Mr. Cuvillier.—Aye.

The Chairman.—The Clerk will announce the result.

The Clerk.—Twelve vote "Aye" and one "Nay."

Mr. Stanchfield.—At an earlier session —

Mr. Stedman.—When a motion is made to strike out — I have in mind the proceedings this morning — does that mean that the fact is stricken from the committee's mind and not to be considered, or does it mean literally that it is not to appear in the transcript of the proceedings?

The Chairman.—Why, I don't see how you can strike it from the transcript of the proceedings. It is like a motion to strike out before a jury.

Mr. Stedman.—It goes into the record but it is to be disregarded.

The Chairman.—The Court says disregard it.

Assemblyman Cuvillier.—If it is expunged from the record it won't stay in.

Mr. Stedman.—I was interested this morning where the motion was to strike out.

Mr. Cuvillier.—If it is expunged, then it stays out.

Mr. Stanchfield.—In a trial in a court of justice where a motion is made to strike out evidence, although the evidence may be stricken out, it remains in the record in order that the Appellate Court may determine whether or no the evidence properly went out or otherwise. . But here there being no appeal, except to the Court of public opinion, anything expunged goes out of the record.

The Chairman.—Proceed.

Mr. Stanchfield.—We introduced in evidence at a prior session of the Committee — taken from the record of the proceedings in the Berger trial — an article entitled "The Price we Pay," by Irwin St. John Tucker, which I will not now reread. I am simply calling the attention of the Committee to the fact that that document is in evidence, and in connection with it I offer in evidence a certified copy of a record of conviction in the District Court of the United States for the Northern District of New York, in the case of the United States of America against Clinton E. Pierce, Angelo Croo, Charles H. Zeelman and Charles Nelson, who were indicted for a violation of the Espionage Statute; and among the acts set out as constituting a violation of that statute was the circulation of an article entitled "The Price we Pay."

The Chairman.—It may be received.

(Received in evidence and marked Exhibit No. 82.)

Mr. Stanchfield.—And as relevant and material evidence in this investigation I will read in evidence certain excerpts from

the opinion of the Judge presiding at a term of the United States Court, where a demurrer was interposed to the indictment by the defendants named in the record of conviction, in order that the Committee, as well as the Court of Public Opinion, may understand what the holdings are of the Federal Court as to what constitutes a violation of the Espionage Statute, as applicable to certain remarks and statements that have been made by certain of the five men who are under investigation in this proceeding. I am reading, Mr. Stedman, from page 880 of volume 245 of the Federal Reporter. I am not, gentlemen of the Committee, reading all of the opinion. I am simply reading excerpts from it, such as are material to the point that I am addressing to your attention at the moment:

“It is seen at a glance that whoever, when the United States is at war, wilfully makes or conveys false reports or false statements with intent to interfere with the operation or success of the military or naval forces of the United States, or to promote the success of its enemies, commits a crime against the United States. It is not necessary that the operation or success of the military or naval forces be actually interfered with, or that the success of its enemies be actually promoted. The making or conveyance of false reports or false statements, with an intent to interfere with the operation or success of either the military or naval forces of the United States, or to promote the success of the enemies of the United States is all sufficient. The defendants have extensively circulated and spread broadcast a printed pamphlet or circular containing, with other things, the following”—then follows excerpts from this document headed “The Price we Pay,” beginning “Conscription is upon us; the draft law is a fact!”

I am not going now to repeat the excerpts from that pamphlet unless the Committee desire it.

The Chairman.—Is that in evidence, “The Price We Pay”?

Mr. Stanchfield.—Yes, it is in evidence. Shall I read these excerpts that are a part of this opinion? They are brief.

The Chairman.—Mr. Jenks has not heard it.

Mr. Stanchfield:

"Conscription is upon us; the draft law is a fact!

"Into your homes the recruiting officers are coming. They will take your sons of military age and impress them into the army.

"Stand them up in long rows, break them into squads and platoons, teach them to deploy and wheel.

"Guns will be put into their hands; they will be taught not to think, only to obey without questioning.

"Then they will be shipped through the submarine zone by the hundreds of thousands to the bloody quagmire of Europe.

"Into that seething, heaving swamp of torn flesh and floating entrails they will be plunged, in regiments, divisions and armies, screaming as they go.

"Agonies of torture will rend their flesh from their sinews, will crack their bones and dissolve their lungs; and every pang will be multiplied in its passage to you.

"Black death will be a guest at every American fireside; mothers and fathers and sisters, wives and sweethearts will know the weight of that awful vacancy left by the bullet which finds its mark.

"And still the recruiting officers will come; seizing age after age, mounting up to the elder ones and taking the younger ones as they grow into soldier size.

"And still the toll of death will grow.

"Let them come! Let death and desolation make barren every home! Let the agony of war crack every parent's heart! Let the horrors and the miseries of the world-down-fall swamp the happiness of every hearthstone!

"Then perhaps you will believe what we have been telling you! For war is the price of your stupidity, you who have rejected Socialism!"

Then, after referring to the war and its horrors, we find the following:

"You cannot avoid it; you are being dragged, whipped, lashed, hurled into it; your flesh and brains and entrails must be crushed out of you and poured into that mass of festering decay."

"It is the price you pay for your stupidity — you who have rejected Socialism."

Then, after referring to food prices, we find the following:

"The Attorney-General of the United States is so busy sending to prison men who do not stand up when the Star Spangled Banner is played that he has no time to protect the food supply from gamblers."

Then later:

"We are beholding the spectacle of whole nations working as one person for the accomplishment of a single end — namely, killing. * * *

"We have been telling you for, lo, these many years that the whole nation could be mobilized and every man, woman and child induced to do his bit for the service of humanity; but you laughed at us.

"Now, you call every person traitor, slacker, pro-enemy who will not go crazy on the subject of killing; and you have turned the whole energy of all the nations of the world into the service of their kings for the purpose of killing, killing, killing.

"Why would you not believe us when we told you that it was possible to co-operate for the saving of life?

"Why were you not interested when we begged you to work all together to build, instead of to destroy? To preserve, instead of to murder?

"Why did you ridicule us and call us impractical dreamers when we prophesied a world-state of fellow-workers, each man creating for the benefit of all the world and the whole world creating for the benefit of each man?

"Those idle taunts, those thoughtless jeers, that refusal to listen, to be fair-minded, you are paying for them now.

"Lo, the price you pay! Lo, the price your children will pay! Lo, the agony of death, the blood, the unforgettable sorrow — the price of your stupidity! * * *

"VII. For this war — as every one who thinks or knows anything will say, whenever truth telling becomes safe and possible again — this war is to determine the question, whether the chambers of commerce of the Allied Nations or of the Central Empires have the superior right to exploit undeveloped countries.

"It is to determine whether interest, dividends and profits shall be paid to investors speaking German or to those speaking English and French.

“Our entry into it was determined by the certainty that if the Allies do not win J. P. Morgan’s loans to the Allies will be repudiated, and those American investors who bit on his promises would be hooked.”

Then begins the opinion:

“We have here, not only lurid but exaggerated pictures of the horrors of war, possible and impossible, but many false statements calculated to incite opposition to the war and opposition to the government and also calculated to interfere with the morale of our armies, discourage enlistments, registration, and willing service in our armies, and encourage desertion. These false statements are also calculated to encourage our enemies and discourage and intimidate our own citizens and soldiers, and thereby promote the success of our enemies. It is not true that the recruiting officers will take our sons of military age and ‘impress them into the army.’ It is not true that, ‘You are being dragged, whipped, lashed, hurled into it’ (the army or the war). It is not true that ‘The Attorney-General of the United States is so busy sending to prison men who do not stand up when the Star Spangled Banner is played that he has no time to protect the food supply from gamblers.’ The Attorney-General of the United States is not doing anything of the kind. It is not true that ‘We are beholding the spectacle of whole nations working as one person for the accomplishment of a single end—namely, killing.’ It is not true that, ‘Now you call every person traitor, slacker, pro-enemy who will not go crazy on the subject of killing; and you have turned the whole energy of all the nations of the world into the service of their kings for the purpose of killing, killing, killing.’ It is not true that ‘Our entry into it (this war) was determined by the certainty that if the allies do not win J. P. Morgan’s loan to the allies will be repudiated and those American investors who bit on his promises would be hooked.’ Here is a plain assertion to every intelligent mind that the declaration of war to which reference has been made contains a falsehood, and that such declaration was made because of the fear that the allies might not win, and that in such case J. P. Morgan’s loans to the allies would be repudiated, payment refused, and that American investors would lose their loans and suffer loss. In other

words, that our entry into this war with Germany was determined upon by Congress to insure, if possible, the success of the allies, to the end that they would fulfill their contracts, and pay the loans made them by individuals in the United States.

“The purposes and motives of our President and of Congress are impugned and grossly misrepresented and falsified. That reports or statements can be more or better calculated to interfere with the operation and success of our military and naval forces in this war, or more or better calculated to promote the success of the enemies of the United States?

“(2-5). It is said, first, this pamphlet is an argument in favor of socialism and of the socialistic party; and, second, that such publications are proper and allowable under our Constitution, which prohibits curtailment of freedom of speech and of the press.

“The first amendment to the Constitution of the United States provides:

‘Congress shall make no law respecting an establishment of religion, or prohibiting the free exercise thereof; or abridging the freedom of speech, or of the press; or of the right of the people peaceably to assemble, and to petition the government for a redress of grievances.’

“If this means that every man and woman in the United States in times of war and national peril may falsely state or say in words, or by means of pamphlets and writings printed and spread broadcast, anything and everything he pleases, however injurious to the general welfare and however grossly false the statements and however detrimental to the success of our military and naval forces the falsehood may be, and that Congress is powerless to enact a law abridging this right, then the law under consideration is unconstitutional except in so far as it merely prohibits the circulation and distribution of such pamphlets containing the false reports and false statements of the nature described. In *Warren v. United States*, 183 Fed. 718, 721, 106 C. C. A. 156, 159 (33 L. R. A. (N. S.) 800), the Circuit Court of Appeals, Eighth Circuit, said:

“‘Liberty and freedom of speech under the Constitution do not mean the unrestrained right to do and say

what one pleases at all times and under all circumstances,' etc.

Mr. Stanchfield.— I run over to 888, Mr. Stedman.

“(9) Citizens have the right to criticize the existing laws, point out their defects, injustice and unwisdom, and advocate their amendment or repeal; but they have no constitutional right to counsel, advise, encourage, and solicit resistance to the execution of or refusal to obey them. A political party and its individual members may advocate the repeal of existing laws, their amendment and improvement, and point out defects, and a political party may be formed for this very purpose. However, a so-called political party may not be formed to resist the execution of existing laws claimed to be unwise, unpatriotic, and oppressive, and its members permitted to encourage and advocate resistance to their due execution because of their membership therein. The willful resistance to the execution of a valid law may be made a crime, as may the willful obstruction of its enforcement. Any and all resistance and any and all obstruction to the operation or enforcement of a law may be declared an offence. It is the duty of all persons to obey the law and in lawful ways when called upon by due authority to aid in its enforcement. If this is not true, no government can survive.

“I find no ground for sustaining the demurrer to the indictment or to any count thereof, and same is overruled.”

Mr. Stedman.— Mr. Chairman, we have in connection with that—we will read another authority that applies to the same pamphlet. Before doing that—

Mr. Stanchfield.— When they take their case I have not the slightest objection to Mr. Stedman introducing, as evidence, anything that he regards as pertinent upon the subject.

Mr. Stedman.— I thought as it applied to precisely the same pamphlet—

Mr. Stanchfield.— No; I am not engaged in a legal argument. I am using this as evidence. I am not addressing a legal argument to you, sir, upon the propriety—

The Chairman.— But he is undertaking to read another legal proposition as possibly his cross-examination in regard to that evidence.

Mr. Stanchfield.—Well, there isn't any witness here to cross-examine.

Mr. Stedman.—But before you are offering it as evidence.

Mr. Stanchfield.—That is quite true. When he takes the case I haven't the slightest objection.

The Chairman.—He has the right to put it in right now, hasn't he?

Mr. Stanchfield.—Simply because we have the case can Mr. Stedman—that is the reason—

The Chairman.—Are you going to read another legal opinion?

Mr. Stanchfield.—No.

The Chairman.—I will let Mr. Stedman read his in now.

Mr. Stedman.—I wish to call attention before the authority is read to this also, that the judge who rendered that decision, Judge Ray, mentioned in his opinion “conduct which would be calculated to obstruct recruiting and enlistment,” and in that connection I wish to read four paragraphs from the Congressional Record, page 4996, April 4, 1918: “Mr. Johnson of California:—”

Mr. Stanchfield.—Now, I object to that.

The Chairman.—That is extensive.

Mr. Stanchfield.—That is a speech perhaps made by some Socialist sympathizer on the floor of Congress.

Mr. Stedman.—What I am reading was for the purpose of showing the term “calculated”—

The Chairman.—You know my idea. If it is on the decision of that demurrer,—if there was a dissenting opinion or another opinion, or anything that hinges on that issue that was before the court at that time you may read it in; otherwise it becomes a part of the affirmative proof.

Mr. Stedman.—I have that, but I thought it would be proper to call attention to the fact that “calculated” was specifically stricken from the act when under discussion, although Judge Ray carried it into the act again. Mr. Roe will read the opinion.

The Chairman.—On the same motion?

Mr. Stedman.— On the same leaflet. In other words, the man that circulated that leaflet was a criminal before one judge and an innocent man before another.

The Chairman.— This is the opinion of Judge Ray in the Northern District of this State?

Mr. Stedman.— This is for this State. If you cross the line in one State, you are one thing, and if you go to the other line you are another.

Mr. Roe.— This is in the District Court of Maryland.

Mr. Stanchfield.— And this is the Legislature of the State of New York. We are not concerned about the law of Maryland.

Mr. Stedman.— This is a Federal act, and we are concerned with the judge's interpretation of the Federal act which can be passed on by this State.

Mr. Roe.— Mr. Chairman, just a couple of paragraphs.

Mr. Block.— I think the Committee should know the case from which Mr. Stanchfield has read, the Pierce case, is now pending in the Supreme Court of the United States on appeal.

The Chairman.— I assume they are all appealing.

Mr. Karlin.— I should like to state that Judge Ray very frequently sits in the Southern District of New York.

Mr. Sutherland.— We understand that conviction has been confirmed by the Circuit Court of Appeals.

The Chairman.— Read your two paragraphs.

Mr. Roe.— This is the case of the United States against Baker, et al, in Vol. 247 of the Federal Reporter at page 124. The same pamphlet is before the court. I may say I have a certified copy of all the proceedings in this case.

Before any evidence was introduced — Judge Rose, you gentlemen will perhaps recall, was one of the ablest of the district judges.

The Chairman.— Strike that out. We assume judges are all able. Go ahead.

Mr. Stanchfield.—Very likely, never a case was tried in court when counsel did not rise and say the Judge was all right if he was leaning his way.

The Chairman.—Go ahead.

Mr. Roe.—(Reading):

“Every man has a perfect right to any opinion he may see fit to form about any proposed law, or about any law that is on the statute books. Any man may do anything, in itself legal, to secure the repeal of any law in force. To that end he may make any argument that commends itself to his reason and judgment against the policy of any particular law, whether it be the law for a selective draft or any other. And he is not answerable for the wisdom of his arguments. He could not very well be put on trial even for the good faith of some of them. I am afraid, if he could be, most of the political orators in every campaign would be liable for much they say about the other party. We all of us say more against our political opponents than we really believe. But there is one limit. As long as the law is the law, it is the duty of every man to obey it; and he may not, under color or pretense of arguing against the wisdom of the law, or of advocating its repeal, do anything with intent to procure its violation.”

Then after the pamphlet had been introduced and directing a verdict for the defendant, he said:

“You may have your own opinions about that circular. I have very strong individual opinions about it, and as to the wisdom and fairness of what is said there; but so far as I can see, it is a circular principally intended to induce people to subscribe to a Socialist newspaper and to get recruits for the Socialist party. I do not think that we ought to attempt to prosecute people for that kind of thing. It may be very unwise in its effect, and it may have been unpatriotic at that particular time and place; but it would be going very far indeed, further, I think, than any law that I know of would justify, to hold that there has been made out any case here, even tending to show that there was an attempt to persuade men not to obey the law.

“There is a very lurid description of the horrors of war in that circular — some of it well written; some of it not so well written. But, after all, there is no difference of opinion

that war is a terrible catastrophe, and involves many terrible things. The circular develops some sort of a theory, not very clearly argued out, that if everybody had voted the Socialist ticket there would have been no war. The circular ends up with an appeal to subscribe to the Socialist paper for 50 cents a year, or 25 cents for every six months.

"Mr. Latane.—The side of it that appealed to the government was this, your honor. Of course, we are perfectly satisfied with your honor's determination of the matter; but, just in explanation, it starts out with the words, "Conscription is upon us and the draft law is a fact."

"The Court.—That I understand to be a fair and reasonable deduction that from their point of view it all could have been avoided if the people earlier had taken this Socialist paper and had voted the Socialist ticket.

"Mr. Latane.—The point that occurred to the government is this: these people are too clever to directly, in print, to attack the draft law; so, under guise of advocating the principles of the Socialist party, they give the whole draft proposition a very raw deal.

"The Court.—That is possible, but you must prove the intent beyond the possibility of a reasonable doubt.

"Mr. Latane.—All we want is to get some judicial determination of the matter.

"The Court.—The judicial determination of the matter is that in whatever form they put what they say or do, whether that of advocating the principles of any political party, Republican, Democratic, Prohibitionist, Socialist, or under any other guise whatsoever, it is an offense to do anything with the intent of bringing about a violation of the law; but the commission of that offense must be proved, the intent must be established by evidence which will justify a jury in holding that it was made out beyond a reasonable doubt, and in this case there is no such evidence.

"Gentlemen of the jury, you have the instructions of this court to return a verdict of not guilty."

Assemblyman Evans.—This was on a trial?

Mr. Roe.—The other case was on a demurrer, where all the pleadings and allegations must be assumed to be true.

Assemblyman Evans.—There is no difference in the instructions on the law.

Mr. Roe.— No.

Mr. Stanchfield.— The difference is this: that in one case Judge Ray held that the document upon its face was a violation of the law.

Mr. Roe.— With the allegations of the pleaders.

Mr. Stanchfield.— And Judge Merrill held to the contrary and withdrew it from the consideration of the jury. The difference between the two cases, and the point I want to accentuate, is that in the case before Judge Ray 12 impartial men in a box declared that the document before the court was a violation of the section and convicted the men of a violation of the Espionage Act.

Mr. Roe.— No.

Mr. Stanchfield.— We put in the record of conviction.

Mr. Roe.— That involves other elements than this pamphlet, very many of them.

Mr. Stanchfield.— The pamphlet was the same thing. It was Exhibit A. Exhibit A is the primary evidence.

The Chairman.— Well now, proceed.

Mr. Stanchfield.— I was simply accentuating that the court of public opinion, to wit, the 12 men in the box, had decided adversely to Mr. Roe, as I think the 12 men before Judge Merrill would have if they had had an opportunity.

Mr. Stanchfield.— I now offer in evidence the circular from the local of the Socialist Party in Albany.

The Chairman.— Mark it received.

(The paper was received in evidence and marked Exhibit No. 83.)

Mr. Stanchfield.— It links up the Socialist Party as a party with the defense of the men whose record of conviction I have just offered in evidence. This is simply a type; I select Albany because we happen to be in Albany.

Mr. Stedman.— Let me see it, please. (Paper handed to Mr. Stedman.)

This letter is dated January 27, 1918, as appears from the document and is from the defense committee for the purpose of

raising funds to defend Zeilman, Nelson, Pierce and Creo, who it states were indicted in 1917 for distributing the pamphlet "The Price We Pay," or leaflet. I cannot see how appealing for funds to defend persons who have been indicted constitutes any element going to prove the qualification or disqualification of Assemblymen.

Mr. Stanchfield.—The counsel for the Committee offered it upon the theory that it is the action of the Socialist Party.

Mr. Stedman.—That they defended persons who distributed "The Price We Pay."

Mr. Stanchfield.—Certainly that they are giving aid and comfort to the enemy and violated the Espionage Statute.

The Chairman.—I will receive it.

Mr. Block.—Do you hold that these men were not entitled to be defended?

Mr. Stanchfield.—Oh no, far from me. I am too often engaged on that side of it myself. (Reading.)

"Local Albany, Socialist Party, Defense Committee, Edward F. Smith, Treasurer, 143 Northern Boulevard, Albany, N. Y., January 27, 1918." The Committee will observe in the upper left-hand corner are photographs of the four men named in the record of conviction that I offered in evidence, Zielman, Nelson, Pierce and Creo, and in heavy black type 'Help Us Take the Shackles Off These Men.' Defense Committee: James G. Sheahan, Edward F. Smith, W. A. Anderson, Fred L. Arland.

"To the Socialist Locals of New York State. Dear Comrades: On November 1st, 1917, we sent out an appeal to the Locals of the Party in the State of New York for funds to aid in the defense of the four comrades, Zielman, Nelson, Pierce and Creo, arrested on August 26th, 1917, for distributing the leaflet 'The Price We Pay.'

"As you were no doubt aware, the comrades were convicted at Auburn on November 17th, of violation of the Espionage Act and sentenced to serve from four months to a year in jail and to pay fines aggregating \$2,000. An appeal has been taken to the United States Supreme Court, and the comrades after spending about a month in jail, have been released on \$3,000 bail each pending the decision on the appeal.

"The expenses of the trial and the appeal to date considerably exceeds the receipts of the defense committee despite the fact that the State Committee has voted considerable money from the state funds in fighting the case. As you know the party funds, both State and National, are low and if we are to present the case properly to the Supreme Court, additional funds must be raised.

"The outcome of this case is of great importance to the party as it is the first case to reach the Supreme Court where the legality of our party literature is in question.

"Many locals made no response to our former appeals. We realize that some locals were not in a position to contribute at the close of the campaign but trust that every local in the State can now contribute something. \$5.00 from each local will assure sufficient funds for the appeal. Will you help? The Albany comrades have put up over \$400 to date. This is your case as well as ours. If lost, our right to distribute Socialist literature will be seriously endangered. All receipts and expenditures of the Defense Committee are reported to the State Committee.

Fraternally yours,

Local Albany, Defense Committee.

Send contributions to Edward F. Smith, Secretary, 143 No. Boulevard, Albany, N. Y."

Assemblyman Evans.—Has the signature of that document been proven?

Mr. Stanchfield.—What is that? I didn't hear you.

Assemblyman Evans.—Has the signature of that document been proven?

Mr. Stanchfield.—You mean proven in what way, Mr. Evans?

Assemblyman Evans.—Connecting the Socialist party.

Mr. Stanchfield.—Well, we have introduced all our exhibits upon the theory, Mr. Evans, that where they appear upon their face that they are published by the Socialist party that it is evidence. (Conversation had between Mr. Stanchfield and Mr. Evans not audible to the stenographer.)

Mr. Stanchfield.—Now, I read in evidence and I will state for the information of the Committee that we are reading in evidence certain provisions of the Federal Constitution and of the public officers law of the State of New York in order that when any member of the Committee has the record before him you can see at a glance just what the material provisions and sections are. I read now Section 11 of Article 1 of the Constitution of the United States:

“To declare war, grant letters of marque and reprisal and make rules concerning captures of land and water.”

Mr. Conboy.—That refers to the powers of the Federal Congress.

Mr. Stanchfield.—Yes.

“12. To raise and support armies, but no appropriation of money to that use shall be for a longer term than two years.”

“13. To provide and maintain a navy.”

“14. To make rules for the government and regulation of the land and naval forces.”

“15. To provide for calling forth the militia to execute the laws of the Union, suppress insurrections and repel invasions.”

“16. To provide for organizing, arming and disciplining the Militia and for governing such part of them as may be employed in the service of the United States, reserving to the states respectively, the appointment of the officers, and the authority of training the Militia according to the discipline prescribed by Congress.”

“18. To make all laws which shall be necessary and proper for carrying into execution the foregoing powers, and all other powers vested by this Constitution in the Government of the United States, or in any Department or Officer thereof.”

Then I read from Article 14, section 3:

“No person shall be a Senator or Representative in Congress, or elector of President and Vice-President, or hold any office, civil or military, under the United States, or under any State, who, having previously taken an oath, as a member of Congress, or as an officer of the United States,

or as a member of any State Legislature, or as an executive or judicial officer of any State, to support the Constitution of the United States, shall have engaged in insurrection or rebellion against the same, or given aid or comfort to the enemies thereof. But Congress may by a vote of two-thirds of each House, remove such disability."

And the first half of section 4 of Article 14:

"The validity of the public debt of the United States, authorized by law, including debts incurred for payment of pensions and bounties for services in suppressing insurrection or rebellion, shall not be questioned."

Mr. Stanchfield.—I read now from paragraph 2 of Article 3 of the Constitution of the State of New York, the last sentence:

"The Assembly shall consist of one hundred and fifty members who shall be chosen for one year."

I read now from the Public Officers Law, Article 2, paragraph 4:

"The term of office of an elective officer, unless elected to fill a vacancy then existing, shall commence on the first day of January next, after his election, if the commencement thereof be not otherwise fixed by law."

Then I read from section 35 of the Public Officers Law, paragraph marked 35-A:

"Removal for treasonable or seditious acts or utterances. A person holding any public office shall be removable therefrom in the manner provided by law for the utterance of any treasonable or seditious word or words or the doing of any treasonable or seditious act or acts during his term."

I likewise read in evidence at this moment section 4 of Article 4 of the Constitution of the United States, which provides as follows:

Paragraph 1:

"The United States shall guarantee to every state in this Union a republican form of government and shall protect each of them against invasion, and on application of the Legislature or of the executive when the legislature cannot be convened, against domestic violence."

EZRA L. KAUFMAN, recalled, testified as follows:

Direct examination by Mr. Stanchfield:

Q. Mr. Kaufman, I hand you a circular dated September 29, 1919, and ask you where you obtained it? A. No. 580 St. Paul street, in the city of Rochester.

Q. And when? A. On December 29th, the year of 1919.

Q. And when you obtained it, was it in the same condition it now is? A. Yes, sir.

Q. I mean, the interlineation was upon it at the time you obtained it? A. Yes.

Mr. Stanchfield.— I offer it in evidence.

(Hands to Mr. Stedman the communication referred to.)

(Circular referred to received in evidence and marked Exhibit No. 84.)

Cross-examination by Mr. Stedman:

Q. Where did you get that? A. No. 580 St. Paul street, Rochester.

Q. Who gave it to you? A. I took that on a search warrant, sir.

Q. A search warrant of whose premises? A. The premises at 580 St. Paul street.

Q. Who was occupying those premises? A. At that time, the local Rochester Proletarian Party.

Q. The local Rochester Proletarian Party? A. Yes, sir.

Q. Do you know what party that is? A. It is a branch of the Socialist party.

Q. Is that the Communist party? A. Not to my knowledge, no.

Q. What did you do with this after receiving it? A. All that stuff was taken to police headquarters.

Q. Did you make any mark on it? A. I did.

Q. In ink or writing — in writing or in print? A. In print, and my initials on it, "E. L. K."

Q. With a rubber stamp? A. Yes, sir.

Q. When you say it is a branch of the Socialist party, do you know that or is that simply your opinion? A. I was told that was a branch of the Socialist party.

Q. Who told you it? A. Mr. C. M. O'Brien, who was the organizer.

Q. How do you know he was the organizer? A. Because I have spoken to him on several occasions.

Q. And he told you on some occasion that he was? A. On December 8th he told me.

Q. You do not know of your own knowledge that it was a branch of the Socialist party? A. He told me it was a branch of the Socialist party.

Q. I say, you do not know it of your own knowledge? A. No, not of my own knowledge.

Q. You know, of course, that there are two parties in New York, the Socialist party and Communist party? A. In New York?

Q. Yes? A. I know that there is a Socialist party in Rochester. Whether they are communists, I am unable to say.

Q. Are you familiar with the situation outside of Rochester? A. No, sir.

Q. Your information is limited exclusively to Rochester? A. Yes.

Q. Do you know that O'Brien is the organizer of the Communist party in Rochester? A. I asked O'Brien that question and he denied there is any Communist party connected with 580 St. Paul street, with the exception of the Hungarian branch of the Communist party.

Q. He said there was no communist party there? A. Only the Hungarian branch.

Q. Although "Communist" appears on the leaflet? A. I did not read the leaflet.

Mr. Stanchfield.—"New York State Committee, Socialist Party, Room 311, Dolan Building, 467 Broadway, Albany, N. Y." At the top, "Walter M. Cook, Secretary;" and on the left hand side, "Rochester Communist." Dated September 29th, 1919.

"To all Socialist party locals, State of New York. Dear Comrades: It has come to the attention of the State Executive Committee that a situation has developed in various sections of the State wherein members of the communist or of the communist labor parties, have been nominated for public office on the Socialist party ticket.

"It is imperative that The Working Class shall stand as a unit in its struggle against the capitalistic class.

"You are urged to go forward with your campaign just as vigorously as ever regardless of the makeup of the ticket at the present moment. Whatever the personnel of the ticket may be, you will be voting for the Working Class and Social-

ism. Let us prove our devotion to the slogan, 'Workers of the World Unite'; 'You Have Nothing to Lose But Your Chains! You Have a World to Gain!' Forget the personalities and wage the strongest campaign we have ever yet put up.

"Yours for Socialism,

"STATE EXECUTIVE COMMITTEE,

"Socialist Party,

"Walter M. Cook, Secretary."

Mr. Block.— May I see that a minute, please?

(Mr. Stanchfield hands to Mr. Block Exhibit No. 84.)

Cross-examination continued by Mr. Stedman:

Q. You do not know who inserted "Rochester Communist" at the top of this letter, do you? A. No, sir. That is just the way I received the paper.

By Mr. Block:

Q. It has been out of your hands subsequent to your obtaining it at St. Paul street? A. It has been in my hands until I turned it over to the property clerk of the Police Department, who forwarded all the communications to the office of the district attorney, to be held as evidence on the parties.

Q. When did you hand it to the property clerk? A. On January 8th.

Q. 1920? A. 1919.

Q. 1919? A. Or 1920 — this year.

Q. And it has been out of your hands ever since then? A. It has been in the hands of the property clerk, and he turned that over to the district attorney's office.

Q. You do not know what was done with it since it has been out of your hands? A. It has been in the safe.

Q. You do not know whether any change has been made in it? A. It is identically the same.

Q. Was that on, "Ex-84"? A. That I cannot tell you — that was just marked as an exhibit, 84.

Q. Was that on in lead pencil (indicating)? A. Yes, sir.

Mr. Stanchfield.— That is all, Mr. Kauffman. Is Mr. Hart here?

WALTER R. HART, called as a witness, being duly sworn, testified as follows:

Direct examination by Mr. Stanchfield:

Q. Your residence? A. 1462 Union street, Brooklyn, N. Y.

Q. Mr. Hart, you have given us your residence; what is your vocation? A. I am an attorney, a member of the firm of Hart, Applebaum & Mayer, office 381 Fulton street, Borough of Brooklyn, City of New York.

Q. That is a firm of lawyers? A. Yes, sir.

Q. Are you acquainted with Charles Solomon, one of the five Assemblymen here, now under investigation by the Judiciary Committee of the Assembly? A. Yes, sir.

Q. How long have you known Mr. Solomon? A. Personally I have known him since the fall of last year. I had seen him prior to that time.

Q. You knew him then by sight anterior to that date? A. Yes, sir.

Q. Now, do you recall a certain meeting being held near Osborn street and Pitkin avenue, Brooklyn, in the month of May, 1917? A. I believe that meeting was held in the month of June or latter part of May at Independence Hall.

Q. Who was the chairman of the meeting? A. Charles Solomon.

Q. Did you attend it? A. Yes, sir.

Q. Were you yourself at that time interested in political life? A. Yes, sir.

Q. Had you been a candidate for office? A. Not at that time.

Q. You had hopes and ambitions? A. Well, it came unexpectedly to me.

Mr. Stanchfield.—It always does. (Laughter.)

Q. About how many were present at the meeting to which I am addressing your attention? A. I don't know exactly the seating capacity of the hall, but the hall was packed. All the seats were occupied and many people were standing, many people outside. I believe on that evening three meetings were held for the same purpose.

Q. Now, do you know the purpose or object of the meeting? A. The meeting was ostensibly for the purpose of urging the repeal of the Conscription Law.

Q. Did you hear any statements made by Mr. Solomon at that time? A. I did.

Q. What did you hear him say? A. Mr. Solomon, acting as chairman of the meeting, in his opening remarks announced that the purpose of the meeting was for the purpose of repealing the Conscription Law. He then went on and stated this country entered the war for the purpose of protecting the interests of certain Wall street capitalists who had loaned money to the Allies and that the Wall street interests feared that unless this country entered the war and saved the Allies from defeat the money they loaned to the Allies would be lost and they would be unable to collect it. And for that reason they had used their influence upon the authorities in Washington in order to declare war, to protect their interests and secure the loans which they had made for the Allies.

Q. Was that part of his opening address? A. That is in substance. I do not pretend to repeat verbatim what he said.

Q. All I am asking you is to give it in substance, Mr. Hart. A. That is it in substance.

Q. Was there present at this meeting a man named Karlin? A. There was a man named William Karlin, a lawyer, who advertises in the New York Call.

Q. Did Mr. Solomon introduce him at that meeting? A. Yes, sir.

Q. Did he speak? A. Yes, sir.

Q. Do you recollect the substance of his remarks? A. His remarks, in substance, in regard to the reasons for this country entering the war were practically the same as Solomon's, and also, as he progressed, he said nobody was in favor of the war except the ruling classes of this country, the capitalists of this country; that the rank and file, the masses, were opposed to it; it was wished upon them and brought upon them against their wishes. He said nobody was in favor of conscription; as matter of fact, everybody was opposed to conscription, as was attested to by the fact there was a large audience present. Then he called upon those in the audience opposed to conscription to stand, and practically the entire audience stood in addition to those already standing. I was standing at that particular time. The audience when they stood—I didn't have any particular seat—they cheered, and when they saw that practically all the audience had risen they cheered and made quite a demonstration. Then he

went farther and said this — Mr. Karlin asked, "Is there anybody here in favor of conscription?" I being standing at the time said, "Yes, I am." The crowd hooted me, booed me, and some of them got up and threatened me. When order had been restored Mr. Karlin said, "Now let that young man come up here and tell us if he is in favor of conscription why he has not enlisted." I walked down the aisle and said, "I take it you have asked me to give my reasons." When I walked down the platform I had already applied for admission to the Officers' Training Camp, and when I walked down Mr. Solomon said, "Young man, this is no debate; you will have to get out." I said inasmuch as they had asked me to explain my reasons I thought I was invited to explain them.

By Assemblyman Cuvillier:

Q. Did Mr. Solomon state why he did not enlist? A. Not at that time, but he did some time subsequently at a debate held in Public School 84.

By Mr. Stanchfield:

Q. You told us that you had at that time already applied for admission into a training camp? A. The Officers' Training Camp.

Q. Did you afterwards enlist? A. I enlisted in the United States Marine Corps.

Q. Did you remain with them for some time? A. Pardon me?

Q. How long did you remain? A. I was discharged — I am still in reserve; I was released, I believe, June 4, 1919.

Q. Now, during the month of July, 1919, did you become a candidate for the Assembly? A. I did not become a candidate until after the primaries. I was a designee for the Assembly at that time.

Q. I am not so much concerned how you became a candidate as I am about what happened. Did you attend during that period meetings on the various street corners that were held in your district? A. I did.

Q. Now, did you hear Morris Zucker speak? A. Yes.

Q. And Harry Whatten? A. Whatten.

Q. And Mr. Shiplacoff? A. I did.

Q. And Mr. Solomon? A. I did.

Q. Now, directing your attention to a meeting that took place at the corner of Stone Avenue and Pitkin Avenue some time in

the month of August, 1919—do you recall Mr. Zucker's making a speech at that time in which he made some statement in regard to Mr. Solomon and Mr. Shiplacoff? A. Yes, sir.

Q. What did he say?

Mr. Stedman.—I object unless they were present.

Mr. Stanchfield.—I will show later they were present.

The Chairman.—If they were present, go on.

The Witness.—They were not present at that time.

Q. They were not present? A. No, sir.

Q. After the speech to which I am directing your attention had been made by these men, did you hear speeches made by Solomon and Shiplacoff? A. I did.

Q. Where? A. On—well, I heard them on various corners throughout the district. Some on Pitkin Avenue and Chester; some on Saratoga and St. Marks, Saratoga and Pacific, Saratoga and Park Place, Pitkin and Douglass.

Q. Will you state what you heard Solomon say? A. At what particular occasion?

Q. At this date to which I am calling attention, some time about August, 1919. A. At what meeting was that?

Q. At any meeting after you had heard speeches made by Mr. Zucker and Mr. Whatten.

Mr. Stedman.—Will you fix the time, please, Mr. Hart?

The Witness.—Yes, it was before the primary election in September. I believe in the latter part of August—the exact date I do not recall.

By Mr. Stedman:

Q. Where? A. Mr. Solomon was speaking—

Q. Where? A. Well, I am coming to that. He was speaking at a meeting at the corner of Prospect Place and Saratoga Avenue. It was a few nights after this meeting which you referred to before where Zucker had spoken. It seemed there was some dissension in the party from Mr. Solomon's remarks and there was a primary fight on between Zucker and Whatten, who were opposing respectively Shiplacoff and Solomon. Solomon was addressing the audience and stating it had been brought to his attention that Zucker had charged him with being reactionary and not

being true to the revolutionary Socialists, and said also Mr. Zucker had charged him, at a meeting at the corner of Pitkin and Stone Avenues, with having supported the government during the war. Solomon said he took occasion to point out that as an infamous falsehood, and pointed out, while people were being sent to jail, for uttering their opinions in connection with the government's attitude in declaring war, and in regard to the war itself, he supported the St. Louis resolution, openly boasted of that fact, and openly announced from the platform his support of it—that St. Louis resolution declaring the unalterable opposition of the Socialist party to the war declared on Germany. He also said he was not a reactionary. He was really and truly a revolutionary Socialist, and that Zucker and the other men, I believe he referred to them as the Left Wingers,—believed that the entire world laid right down on Pitkin Avenue and in the 23rd Assembly District. He said Zucker and the other fellow were laboring under a delusion that the section was strongly Socialist, and the people there were revolutionary. That was the indication of the sentiment of the people throughout the country; and Zucker and those people believed the time of the revolution was ripe, but he did not believe it was, because the people had not reached that point yet, because he was, more than Zucker showed, a revolutionary Socialist.

Q. Is that the substance of Mr. Solomon's speech on that occasion? A. Yes, sir.

Q. Came there another time in the fall when you heard him make another speech,—I refer to Mr. Solomon? A. Yes, sir.

Q. On the corner of Chester and Pitkin avenue? A. Yes, sir; I believe that was in the month of October.

Q. What did he say at that time? A. At that time Mr. Solomon stated that there had been much talk during the primary contest of revolution, and people had been asking him in the streets, "You do not mean to tell me you people are in favor of revolution?" And he answered frankly, "We are," and he explained, "Revolution does not necessarily mean bloodshed. All you have to do is walk up and take control of the government." "Suppose somebody opposes you when you do that?" He says, "We expect that. There are the tools of the capitalists and parasites that prey upon the government as it exists today, and people who are fanatic in their belief, and we expect some op-

position ; but if these people oppose us, their blood will be on their own heads."

Q. About how many people, roughly speaking, would you say were at that meeting? A. It is pretty hard to judge a street audience, but I should judge approximately 350 to 500 people.

Q. Now, do you recollect of other statements made by Mr. Solomon, or in his presence, during this fall of 1919? A. Yes, sir.

Q. Under what circumstances? A. Well, I heard at a meeting, I believe the second meeting of our campaign on the corner of St. Marks avenue and Saratoga, on opening my meeting I noticed,—I was honored by having both Mr. Solomon and Abraham I. Shiplacoff in the audience as spectators. At the outset I stated to the audience they were present, and stated to the audience that if they both found out I made any misstatement of any material fact in the course of my remarks, I wanted either one of them to interrupt me and tell me where I made a false statement. I then proceeded to say that the Socialist party had opposed this movement during the war. I pointed out in and by the terms of the St. Louis resolution the Socialist party declared its unalterable opposition to the war against Germany, and they called upon the workers of all countries to refuse support to their government in time of war. I pointed out that was merely tantamount to a declaration that the workers should refuse to support the war because all the workers of the other countries were supporting their country in the war. I pointed out that was merely an appeal to the working class of this country to refuse support to the government in the prosecution of the war. I pointed out further the resolution directed any representatives of the Socialist party who were elected to Congress or the State Legislature to vote against any and all appropriations for military and naval purposes. I pointed out if that were done,—a Socialist majority were to be in Congress, and to be in the respective State Legislatures, while two or three million American soldiers were over in France, and followed out the terms of the St. Louis resolution and voted against appropriations for naval and military purposes, it would result in the starvation of these troops in France. It would also result in the failure to supply them with ammunition and clothing because of the fact that the appropriations would not be made. I also pointed out in that St. Louis resolution that they said they would oppose the war by mass petitions and other actions, and

other means within their power. I pointed out the terms "every means within their power" included practically giving up to the Germans,—and Allen Benson, who was the candidate for President on the Socialist ticket, I believe in 1916, Allen Benson had pointed out that this term, "Every means within their power," might be so construed, and the meaning they were willing to give out to Germany, but they had not changed it after Allen Benson had made that statement. I pointed out further that he said that it would support all mass movements in opposition to conscription; and the term "mass movement" must be construed as meaning to evade the draft or any movement whatever in opposition to conscription. During my remarks neither one of these gentlemen interrupted me. Finally I criticized the tactics of the Socialist Party at their meetings, especially the tactics of Mr. Solomon. Though I mentioned these facts concerning the St. Louis resolution and stated these gentlemen supported it, Mr. Shiplacoff applauded it. I do not know whether Mr. Solomon did or not, because he was standing to one side of me. I then spoke about the tactics of Mr. Solomon appealing in certain sections that he was not getting the proper support from a religious standpoint, and trying to show that he was discriminated against in certain sections because of his religion, and when he came down to the section where there were people who voted against him, he came down there and told them that, and at that point for the first time Mr. Solomon interrupted me and said, "You are a liar," and demanded my platform. I said, "Just one minute. If you want my platform, all well and good." And he said, "I demand it right away." I says, "You cannot demand anything here, Solomon. It is my platform, and if you speak from my platform it is a matter of courtesy on my part. When you demand it you claim you are entitled to a right. I will appeal to this audience — your calling me a liar"—and taking advantage of that fact, I said, "I call your attention to a meeting where you refused to give me your platform, Mr. Shiplacoff, and where you, Mr. Solomon, denied me that privilege at Independence Hall in Brooklyn. Now I am going to leave it to the audience whether you are entitled to the platform, and the audience decided they were not. I told him I would give him an opportunity at any time in public debate, and I did not believe street corners were the place to debate, especially in that particular community. So Solomon took down the name of my chairman and promised to communicate with him and send me a challenge to debate. I

never heard from Solomon after that until one day I picked up *The New York Call*, of which I have been a reader for the past six years, and in the *New York Call* I noticed I was evading a debate with Solomon, and in the article in *The Call* it said a registered letter had been sent to me but they had not heard from me. I 'phoned home and found out a registered letter had arrived by the second mail, evidently having been sent to *The Call* before it was sent to me. So in the letter, when I went home, it stated that Mr. Solomon had heard, or rather, the agitation committee of the Socialist Party — may I read the letter, I believe I have it here — well, in substance it was a challenge for me to go to any of their meetings and they would accord me the courtesy of the platform. They said that I was evading a debate with Solomon when as a matter of fact he was evading the debate himself. This letter was also published in *The New York Call*, with the article to the effect I was evading the debate. I looked in the *Call* and found they had a meeting for that evening in Public School 178. I went there. *The New York Call* was the only paper that announced it. The audience, therefore, was strongly a Socialist element gathering. I came in in the midst of Mr. Solomon's remarks and I waited for an opportunity until he ceased, and I then announced my presence. When I got up on the platform, I was booed and hissed by the majority of the people in the audience. Mr. Solomon said, "Go on." I said, "Is this to be a debate?" He said, "Yes, go ahead and take thirty minutes." I said, "I would like to arrange it so that I will have an opportunity for rebuttal. I do not know what you are going to say. Suppose you speak first and justify your actions in the Assembly and favoring your support of the St. Louis Resolution of the Socialist Party." He says, "You will speak first or you don't speak at all." I said, "Damn it, I will speak first." I got out and was introduced by the chairman, Mr. Sadoff. I got out and all the people hissed me, and I remarked there were quite a lot of snakes in the audience, I heard a hissing sound; and after I had gone into my remarks I pointed out the St. Louis resolution of the Socialist Party was clearly that the Socialists were opposing this government in its war against Germany, or rather, had opposed this government in its war against Germany. I showed also, as on previous occasions, they were willing and ready to vote for measures which would in effect starve our troops while in France. I also pointed out the revolutionary nature of the Socialists and the utterances at the street corners. I pointed out

boys fifteen or sixteen years of age were coming upon street corners from the Young People's Socialist Sunday School,—“yipsels,” as they call them,—and were talking in substance as anarchists.

Go down and join the Young People's Sunday School, the Young People's Socialist League; go down and learn the principles of Socialism, and then the higher principles of Bolshevism, because Bolshevism is a real menace to the United States. I said this in the — in Mr. Solomon's presence concerning the meeting held on the corner of Chester and Pitkin Avenue, in the month of October. I also went on and quoted from various Socialist writers. I had heard Solomon defend the term “revolution,” as meaning a sudden change. I heard him define it in one place as meaning one thing, and I heard him define it in another place as meaning another thing, according to the temper and nature of his audience, and I quoted from various Socialist writers to show that by revolution they mean a violent and bloody overthrow of this government, and not a sudden change. When I concluded my remarks, Dr. Sadoff got up, pointed his finger at me, and said, “I am going to tell Mr. Hart, whether he likes it or not, that I am a revolutionary Socialist, and I am Bolshevik from top to bottom.” The audience went wild. They applauded and cheered. Then Mr. Solomon spoke. I also stated if the Socialists were ready to start their revolution let them go ahead, that I belonged to an association having a million members, the American Legion, and that soon will have four million in its membership, and nothing would please us more than to sit on the seat of a machine gun and give them a reception. Solomon said, “Mr. Hart doesn't seem to realize the enormous proportions that this revolution is going to take. There will be nothing which will be able to hold the wrath of the working class in check. They will be able to sweep aside like chaff in the wind the opposition of four million men. What right have ex-service men to hold in check the destiny of 100,000,000 people in this country?”

He did not deny my statements concerning the St. Louis resolution, nor that young people were being taught at the Young People's Socialist League revolution and Bolshevism and that the overthrow of the government is being preached to them.

In substance, he merely went on to a criticism of the Democratic Party, of which I was a member in general, saying I might be a nice fellow personally and might possess ability and all such flattering remarks; but saying that no man was greater than the party

to which he belonged. I was not given an opportunity for rebuttal, and that was the end of that particular debate.

Q. Were you the Democratic candidate in that campaign for the Legislature? A. Yes, sir.

Mr. Stanchfield.— You may cross-examine.

Cross-Examination by Mr. Stedman:

Q. How many votes did you get? A. I believe about 2,900.

Q. How many did Solomon get? A. I believe about forty-one. I am not positive.

By Mr. Block:

Q. 4,100 A. 4,100.

By Mr. Stedman:

Q. You say you have some clippings from Socialist writers, or definitions from Socialists, who stated that we are going to have, and that they advocate, a violent and bloody revolution to overthrow this government? A. Yes, sir.

Q. What book does it appear in? A. I quoted at that debate from Bookrider's debate with John Wesley Hill, at the Carnegie Hall, before Bookrider was expelled from the party for saying he was going to vote for Seabury for Governor. I quoted, also, from John Spargo on "Syndicalism and Industrial Unionism."

Q. Did John Spargo, in his book on Syndicalism, state that it is the purpose and object of the Socialist party of the United States to overthrow the Government by physical force and violence? A. May I read to you what he said?

Q. You may answer that first, if you will. A. Well, he stated this in substance — I can give the exact words if you will permit me to read what he said and —

Q. Do you —

Mr. Stanchfield.— Just let him answer the question.

Mr. Stedman.—What I want is —

Mr. Stanchfield.— I am not going to have him interrupted in the middle of an answer.

Mr. Stedman.— I do not want him to place an interpretation on Spargo's book.

Mr. Stanchfield.—When you ask him a question, the witness is going to have a fair opportunity to answer.

Mr. Stedman.— I expect to accord him that.

By Mr. Stedman:

Q. I want to ask you if you read Spargo's book on syndicalism?

A. I did.

Q. Are you quoting from Spargo's book? A. I am quoting from an extract from his book.

Q. That you make? A. No. I quote from another book. I can give you the page of the book.

Mr. Stanchfield.— Just answer his questions.

Mr. Stedman.— I am always afraid of a quotation from one man to another. Usually they end up with a story that starts at one end of a neighborhood and ends up at another end, quite different.

The Witness.— The real quotation can be confirmed. I can give you the page.

Mr. Stedman.— I will take the page.

The Witness.— "Spargo on Industrial Socialism and Unionism," pages 172 and 173.

"I am not opposed to sabotage because of any love of law and order, or because of any regard for the rights of property. If the class to which I belong could be set free from exploitation by violation of the laws made by the master class, by open rebellion, by seizing the property of the rich, or setting the torch to a few buildings, or by the summary execution of a few members of the possessing class, I hope that the courage to share in the work should be mine. I should pray for the courage and hardness of heart necessary."

Q. Is that what Spargo wrote himself? A. Yes, sir.

Q. Or is that a quotation of Spargo by somebody else? A. That is Spargo's own writing in that particular book.

Q. Did you see the book? A. Yes, sir.

Q. And you are quoting that from the book? A. I am quoting this as an extract from another book.

Q. Did you read personally Spargo's book? A. I did read Spargo's book.

Q. Did you copy this from his book? A. I did not. At the time I read Spargo's book I made no extracts whatsoever.

Q. That was my question to begin with? A. That is what I answered to begin with.

Q. I misunderstood you, Mr. Witness? A. I am sorry.

Q. Where did you get the extracts, from Collins? A. I did not. I got it from a book published in New York, entitled "The Case against Socialism."

Q. Who is the author of it. A. I believe it is put out by the Anti-Socialist League.

Q. So you went and got a book from the Anti-Socialist Organization that quoted Spargo before he became popular? A. I read Spargo before that. When I saw that, I cut it out, because I could not cut the original book.

Q. You had some other excerpt that you read from? A. Yes, sir.

Q. Before you tell me what the person said who was opposed to socialism, tell me the book it purports to be cut from? A. Social Democratic Herald, Victor Berger, July 21, 1912.

Q. Were you reading the paper? A. No, sir.

Q. You took that as an excerpt from some magazine, or publication that was opposed to the socialists, did you? A. I did, and I made the statement in front of Mr. Solomon, that these were the words of Victor Berger, and Mr. Solomon did not deny it.

Q. Of course, Solomon did not pretend to be there when Berger wrote it, did he? A. No.

Q. Do you know that Berger wrote it yourself? A. Yes, sir, I do.

Q. Are there any other books that you are going to quote. A. Yes, the Communist Manifesto.

Q. Any more? A. The New York Call.

Q. What date? A. February 12, 1910.

(Mr. Stanchfield made a statement which the stenographer assumed to be a private remark and did not put into the record).

Mr. Block.—Mr. Stanchfield makes the assertion here that "The Call" carried in lurid headlines "To Hell with the Flag." That is an absolute falsehood, and I challenge him to prove it.

The Chairman.—That is not in the record. All that the attorney said may be stricken from the record.

Q. When did you become a lawyer? A. 1917, April 13, the same day that I enlisted in the Marine Corps.

Q. And you have been practicing since that time? A. No sir. I have been in the service two years.

Q. War was declared when? A. April 6th, I believe.

Q. 1917. A. 1917, yes sir.

Q. There was a volunteer army being raised at that time? A. Yes, sir.

Q. The subject under discussion generally was whether they could raise an army by volunteer enlistments. Is that not true?

A. Yes, that was being debated in Congress.

Q. And they felt that the people were so hostile to the war that it was advisable to pass a law for conscripting an army, didn't they? A. I don't know who you may mean by they.

Mr. Conboy.—I object to that. This gentleman cannot know what was in the minds of the Congress of the United States.

Mr. Stedman.—I thought your witnesses knew most everything.

The Chairman.—What is the question?

Mr. Stedman.—People who were mustering—your papers; people who said this is a war for righteousness and gagged the lips of the people—

The Chairman.—That may go out of the record. Let's get back to the question.

(The question was then read by the reporter.)

Mr. Stedman.—You could have enlisted?

The Witness.—I know at that time they were discussing the advisability of permitting an army to be raised solely consisting of volunteers which would take away the cream of the country and permit a lot of slackers to remain behind reaping the advantages which would accrue to them as the results of the victories won by those men who volunteered.

Q. And the moment war was declared you went to the recruiting station and volunteered? A. No, sir, I was in the hospital. I had been operated on for appendicitis. I enlisted within a month and a half in the United States Marine Corps Reserve.

Q. Where did you go from there?

Mr. Stanchfield.—I object to that. What difference does it make where he went and what he did.

The Chairman.—Objection overruled.

The Witness.—I was assigned to the Brooklyn Navy Yard and examined by the physician there and he heard of what time

I had been operated on within a month and a half for appendicitis and advised me against enlisting and he said they would accept me for a limited service. I was sent from there to the Naval Militia Depot at Dover, N. J., sleeping in tents with the weather eight degrees below zero, walking post in snow up to my chest about four or five days a week. From there I went to the naval hospital in Brooklyn where they kept me for nineteen days determining whether or not to operate for adhesions, peritonitis, I believe it was. Finally after electric massages they restored me to duty and then I applied to the Officers' Training Camp. During that time I took an examination and passed the examination fourteenth on the list. Ten men were sent and I was told to wait for the second camp; at the time the second camp came into existence I had offended one of my captains there—yes we do that sometimes—and when I went to appear before the Board he told me I was out of it, and there was no use of my waiting around and to beat it and this and that. The captain was removed as adjutant of the post for his action.

Q. Now, passing that, you realize as a lawyer that the evidence that would be most competent for you to use in quoting against a Socialist would be from the context of party platform, don't you? A. Yes, or utterances made by individuals high in party standing.

Q. You wouldn't wish to take the utterance of Democrats as authoritative statements binding upon others if those statements were hostile to its platform, would you? A. No, not if they were hostile to the platform.

Assemblyman Pellet.—Did I understand the witness to say he had read these quotations in the presence of Mr. Solomon and he did not answer them?

The Witness.—He did not deny the truth of my statement.

Assemblyman Pellet.—And these are quotations you made on the public platform?

The Witness.—In the public schools in the borough of Brooklyn.

Mr. Stedman.—Did Mr. Solomon follow you?

The Witness.—Speak after me?

Q. Yes. A. Yes, he insisted that he speak after me.

Q. How long did he speak? A. About half an hour, thirty-five minutes or so.

Q. You had trouble with your audience? A. It is according to what you mean by trouble. They didn't trouble me.

Q. Did you trouble them? A. Solomon seemed very much discomforted by my remarks.

Q. I think the Committee ought to hear this.

The Witness.— I said that in answer to your question.

The Chairman.— I will receive it.

By Mr. Stedman:

Q. What did Solomon say? A. Do you want me to give his entire speech, or just the substance of what he said? Solomon almost exclusively confined himself to an attack upon the Democratic party, saying that no matter how good I might be, a man is no better than the party to which he belongs, with which I disagreed with him.

Q. He paid little attention to what you had been saying? A. No, I wouldn't say that, but he paid attention to certain things I said when it did not seem necessary.

Q. Was Zucker running against him? A. No, Zucker was running against Shiplacoff. Zucker was a Socialist. They formed the left wing. Whatten was running against Solomon.

Q. There were two factions? A. Yes, the same as the Democratic party. The left wing wanted the revolution immediately, and the right wing believed they should wait a couple of weeks.

Q. And you were willing to wait longer? A. I don't know. I did not have any views upon the matter at all, although I knew they were not the type of people to start a revolution. They were the same people who were proclaiming their opposition to bloodshed when it came to their enlisting, and it seemed strange to hear them talk about going out and grabbing the government.

Q. You did not believe their talk in that respect? A. I did not think they had the courage to do anything of the kind.

Q. You thought they would talk more than they would act? A. I believed if they could do it without any danger to themselves, they would do it.

By Assemblyman Cuvillier:

Q. You think they were physical cowards? A. Both physical and mental and moral cowards.

By Mr. Stedman:

Q. You cannot see any reason for a legislative body to be alarmed at them, then can you? A. I would not say that. A man may be a coward and nevertheless be more dangerous than a man who is outspoken and straightforward. A coward may act like a snake in the grass and do things under cover, which makes him more dangerous than the man who possesses the courage of conviction and comes out openly.

Q. You think that the socialists are likely to act under cover? A. I believe so.

Q. Did you ever meet a socialist who did not try to tell you all he knew on every street corner or garret or house? A. Yes.

Q. Give his name? A. All right, the five socialist assemblymen here.

Q. They do not talk? A. They do not talk and tell their true opinions when they are confronted with an inquiry of this kind.

Q. I suppose you have met Waldman? A. No. I suppose that is my misfortune.

Q. Have you met Claessens? A. I have seen Claessens.

Q. Have you talked with him? A. I heard him engage in a debate.

Q. When? A. With Frank Wasserman.

Q. Have you heard Orr? A. No.

Q. And yet Orr and Claessens are trying to conceal their opinions? A. You asked me whether or not I ever met a Socialist who was not freely willing to tell everything he knows. I am saying all these men are willing to tell all they know and stand for when they are down in labor lyceums, in an audience packed with bolshevists and socialists; but when they come before a legislative committee they immediately protest their loyalty, and claim to have a constitutional right to sit here. Allen Benson, your candidate for President, wrote a book in which he seeks to show that the constitution which these people are seeking protection under, was framed and designed by capitalists. He says that the constitution was designed to protect the capitalists, and that man was nominated for President, and now the Socialists come in and say, "We have rights. They have violated our constitutional rights and they want to kick us out of the Assembly." (Applause.)

Q. Do you believe in the first amendment of the constitution?

A. I believe in the constitution in its entirety.

Q. Do you believe in the first amendment? A. I believe in the constitution in its entirety.

Q. Do you believe in that part which says that Congress shall make no law abridging the freedom of speech? A. I do, but I differ with the opinion of the Socialists.

Q. Do you believe when they use the word "no" in the constitution, without any qualifications, that it is quite proper to put one in? A. As a lawyer, I am bound by the opinion of the Supreme Court.

Q. I am asking your opinion individually? A. My individual opinion is this: That the Supreme Court of the United States has decided that it has certain limitations; that it does not mean license; and they have passed various laws prohibiting utterances of certain kinds.

Q. Did you ever read Professor Beardley's books on the American Constitution? A. No.

Q. Have you ever read anything about the drafting of the Constitution? A. I read the "Dishonest Constitution" by Allen Benson.

Q. Did you ever read anything about the history of the adoption of the Constitution? A. I did in my school days, years ago.

Q. Do you remember this: That in drafting the constitution there was a controversy between Madison and Hamilton, at which Mr. Madison said, "The Constitution should absolutely prohibit Congress from making any law abridging the freedom of speech or the press, to which Mr. Hamilton replied: "You need put no such provision in the Constitution, because Congress only has the powers which are conferred upon it by the Constitution." Do you remember reading that?

Mr. Stanchfield.—I object to that.

Mr. Chairman.—Objection sustained.

RECESS TILL 4:15.

(After recess the Committee reconvened at 4:20 P.M.)

By Mr. Stedman:

Q. Mr. Hart, you quoted —

The Chairman.—Wait a moment.

Mr. Stedman.—Mr. Hart, you quoted from the St. Louis proclamation, didn't you? A. I didn't quote from it. I gave in substance. I do not pretend to remember it verbatim.

Q. You do not remember any court holding that document illegal? A. I know Victor Berger was convicted and that was introduced in the trial; that was given as one of the chief reasons of his exclusion from Congress.

Q. Do you know of any court decision holding that document to be illegal? A. My impression is that was one of the things, the foundation of the prosecution of Victor Berger.

Q. You know he was prosecuted for conspiracy? A. He was prosecuted for conspiracy and that was one of the facts brought out to show the conspiracy.

Q. You know the difference between the two? A. Certain connecting facts.

Q. Do you know of any decision holding that document to be illegal? A. I don't know unless my answer before—

Q. Where any decision was passed on that document?

Mr. Stanchfield.—He said it was an overt act. That is what he meant to say.

Mr. Stedman.—An overt act, as counsel realizes in a conspiracy case may be any act at all.

Mr. Stanchfield.—It may be illegal or legal.

Mr. Stedman.—If five persons agree to kill a man and one takes a glass of whiskey to get up his nerve that would be an overt act and not in itself an offense.

Q. Now, do you know of any decision holding that that document and its circulation constituted a violation of the Espionage Law? A. I don't know positively, no, but I was under the impression—

Q. You have answered it.

Q. Now, when were you first summoned as a witness in this case? A. I believe the day before yesterday. They telephoned to me Sunday.

Q. And you went to the Prince George Hotel? A. Yes. They had 'phoned me up there that they wanted me to come up. I told them I was busy and they said they would have to subpoena me if I did not come up.

Q. Did they tell you you were a candidate against Mr. Solomon? A. I knew that. They knew that when I came up there. They had sent a man down there to see me some time ago.

Q. You had rather a hot campaign? A. Well, I think it was pretty interesting.

Q. And both of you were pretty vigorous in going after each other? A. Not after each other, necessarily.

Q. Well, after the parties of each other? A. I presume we were both pretty busy going after the office.

Q. You wanted the job, the position? A. I wanted, more than anything else, to see the Socialists defeated. It means nothing to me.

Q. The job was incidental; you wanted to see them defeated? A. Absolutely so.

Q. But you figured at that time that you were the best one to emphasize that defeat? A. Yes.

Q. And you held a great many meetings in your district A. Yes.

Q. And you were speaking at them right along? A. Yes.

Q. And you had persons speaking for you and with you? A. I had one or two.

Q. And Solomon had people speaking for him and with him? A. Well, I do not recall. The only people I saw at any of Solomon's meetings were Solomon and Shiplacoff and Sadoff.

Q. The meetings were rather exciting affairs? A. Which meetings do you refer to?

Q. The Socialist meetings? A. It is all what you mean by "exciting."

Q. The people took a great interest in them and expressed their feelings? A. It is a thickly populated section and the audiences were fairly large. I had no difficulty to get an audience. It is easy to get an audience in that particular section.

Q. And you got audiences where you went? A. Yes.

Q. And the audiences were antagonistic? A. At first I encountered difficulty in speaking. They seemed to regard the idea of free speech as applying to nobody but a Socialist.

Q. They were acting by precedent? A. It is all what you mean by "precedent."

Q. They were acting toward you as some people had acted toward them? A. I do not know what you refer to in this particular case, but when I attempted to open up my meeting, I would open my meeting by saying "Ladies and Gentlemen," and some

fellow would holler out "You're a liar" (laughter), and I immediately apologized and said that probably I had made a mistake in his case. Then they would ply the questions and I came to the conclusion they were Socialists—I mean from the questions which they put, the nature of the questions which they put.

Q. Your audiences were pretty well wrought up? A. I wouldn't say my audiences were wrought up.

Q. Were they in a comatose condition or were they really active for or against you? A. In the beginning they were active against me. It was reported of that neighborhood that it was a physical impossibility for anybody to make himself heard on the corner of Pitkin and Stone.

Q. You made yourself heard? A. Yes.

Q. You were in good physical condition? A. Yes.

Q. You realize that in campaigns men frequently exaggerate their positions? A. I do not see any reason why they should—no, I did not realize it.

Q. You think that during political campaigns the speakers are as deliberate and considerate as they are in a parlor conversation in a dry district? A. That is a question of psychology. I do not know why they should be as quiet as when they are on a platform and there is a crowd; but I think a man on a platform should use more deliberation in speaking to a crowd than otherwise.

Q. I am not speaking of whether he should. I am speaking of whether he does. A. I do not know why.

Q. You do not get carried away by your enthusiasm? A. I try not to.

Q. You are not enthusiastic in a campaign? A. Yes, but not enthusiastic to such an extent that I misstate things intentionally.

Q. And you think your opponents misrepresent intentionally? A. It is according to what you mean by "misrepresent."

Q. Your position and your opponents' position? A. I do.

A. And no doubt they think you misrepresented their position and their party's position? A. I do not know what transpired in their minds.

Q. Judging from what they told you they think of you, you think of each other in about the same terms? A. I do not know. For instance, Solomom would get upon a platform and would denounce not merely me, but my party, and would concede I was all I should be; but being a member of the party, I was no better than the party.

Q. And you would denounce his party? A. Yes, and I would say he was no better than his party.

Q. And you started that way and ran all the way through? A. I have stated the substance of the debates.

Q. Did you give your impression of what Solomon said to anybody prior to the meeting in the Prince George Hotel? A. Yes, sir, I reported them at public platforms.

Q. I mean to any Committee that had this matter in charge? A. No, sir, I never bothered with it. I was too busy in my practice.

Q. The first you knew of it was that Sunday that you were called as a witness? A. I had no idea I was to be called as a witness, but an investigator came to me some time ago.

Q. How long ago? A. Two weeks ago.

Q. It was subsequent to the starting of these proceedings? A. Yes.

Q. What was his name? A. I believe his name was Donnelly.

Q. There were only two of the men who are interested here, whom you have ever met or heard of before that time? A. I believe so.

Q. You live in that district? A. I live in that district.

Q. You are how old? A. 27 this month.

Q. And you made a campaign all through the district, and the people agreed with Solomon? A. I would not say the people agreed with Solomon.

Q. They voted for him. A. They voted the Socialist ticket.

Q. And that was a larger vote than any previous vote in that district? A. No, sir.

Q. Who got more votes than Solomon? A. I believe Shiplacoff did in 1917. He beat the combined Democrats and Republicans. Shiplacoff also got more votes than Solomon in this last election. As a matter of fact, it was a smaller vote.

Q. Shiplacoff got more than Solomon? A. Yes.

Q. He runs in a large district? A. Shiplacoff got a larger vote in those election districts, in those 23 districts in which he run, than Solomon.

Q. That shows he is still more popular than Solomon? A. I wouldn't call it popular; I would say he was more notorious.

Q. More notorious, and in your district the more notorious a man is the more votes he gets? A. Yes, I believe so. I am ashamed of it.

Q. I want to read this entire paragraph from Spargo's book on Syndicalism, Industrial Unionism and Socialism. Do you know that this is the same Spargo who resigned from the Socialist party? A. Yes, sir, I know Spargo resigned from the Socialist party and branded the party's action as treasonable and said the party was guilty of stabbing American soldiers in the back. I heard him say that at the Naval Lyceum, where he gave a lecture.

Q. But he was in the Socialist party? A. He was.

Q. And he is the same man? I read it:

"My own view is that sabotage is not an effective weapon of working class warfare, and that its use can only postpone 'the day when the workingmen will be sufficiently strong to emancipate themselves completely,' and that view I base upon the facts of history. I am not opposed to sabotage because of any love of 'law and order,' or because of any regard for the 'rights of property.' None of these things is particularly sacred to me, none of them is one-thousandth part as dear to me as the emancipation of my class. If the class to which I belong could be set free from exploitation by violation of the laws made by the master class, by open rebellion, by seizing of property of the rich, by setting the torch to a few buildings, or by the summary execution of a few members of the possessing class, I hope that the courage to share in the work would be mine. I should pray for the courage and hardness of heart necessary. It is not, then, because of a lack of revolutionary will that I oppose sabotage and the appeal to other violent methods, but because I believe that they can only leave my class more hopelessly enslaved than ever. It is not that I would be careful not to harm the masters of bread and life and to preserve their property, but because I would not destroy the morale of my class as a fighting force.

"And that is precisely what sabotage does. It destroys the moral force of the proletariat and unfits it for the great struggle. It weakens the sense of class solidarity already developed. It places the crucial and critical events of the struggle once more in the hands of individuals, not of the mass. When we practiced Ca' Canny in England the employers were at first staggered. They did not know how to deal with such a method of attack, but they soon discovered a way. First came the agents provocateurs, the individuals who came into the unions and urged always violence and more violence. Then came the spies."

Mr. Stanchfield.— What is the point to the reading of all this?

Mr. Stedman.— I am finishing the paragraph, if you please.

“The unions were beset by all sorts of shady characters. In the seaport where I lived the local branch of the Sockers’ Union was full of them. The most active men found themselves on the ‘blacklist.’ But that was not all. The spirit of solidarity, which had existed was utterly destroyed.

“Under the circumstances it was impossible for the members to trust one another. The consciousness that spies and informers were in the organization led to secretiveness and distrust. Then, too, incriminations and decriminations were rife. The very nature of Ca’ Canny invited this. It was so easy to charge that an individual was not in good faith working at reduced speed, but rather ‘rushing the job’; it was so difficult either to prove or disprove such a charge as to be well-nigh impossible. Within a short time the union was utterly demoralized by internecine strife.”

Mr. Stanchfield.— You notice in the reading of the excerpt by Mr. Stedman of the book, that was the exact language you used in a quotation you hold in your hand?

The Witness.— I do, but he read more than is here.

By Mr. Stedman:

Q. You knew at the time you quoted it Spargo was not in the party? A. I know he was in the party at the time he wrote it.

Mr. Stedman.— Read the question.

(The question was then read by the reporter.)

The Chairman.— It may stand.

By Mr. Stedman:

Q. You knew he was not in the party at the time you quoted from him, did you not? A. That question is rather ambiguous, at the time I quoted from the works while he was in the party. I knew he was not in the party.

Q. At the time you read the document you have in your hand you knew he was not in the party? A. I knew he had resigned from the party.

Q. That is all.

Mr. Stanchfield.—As part of his examination—

Mr. Stedman.—Oh, yes. There are just one or two questions that Mr. Carlin would like to ask.

Q. Do you know Mr. Carlin? A. Yes, sir, I have seen him before.

Mr. Carlin.—Where did you see me before?

The Witness.—I saw you at Independence Hall at this meeting.

Q. Where is Independence Hall? A. At Osborne street, near Pitkin avenue, Brooklyn.

Q. Do you remember the month?

Mr. Stanchfield.—What is the standing of Mr. Carlin here and who is he speaking for?

Mr. Stedman.—He is one of the counsel.

The Witness.—It was in the latter part of May or early in June, shortly before registration day.

By Mr. Carlin:

Q. Do you remember when the country entered into the war?

A. Yes, April 6, 1917.

Q. And did I understand you correctly on the cross-examination that you told Mr. Stedman that you enlisted within a month of the time? A. A month after I was operated on.

Mr. Stanchfield.—Just wait a moment. I object to going into that again.

The Chairman.—Objection sustained. That is cross-examination of cross-examination.

By Mr. Carlin:

Q. Can you recall as to how long after the country entered the war this meeting took place? A. I believe it was a few days before the time for registration in the draft. It may have been the first few days in June or the last week in May. I know it was just before the time the people were supposed to register on registration day. Registration day, I believe, was June 6th.

Mr. Conboy.—June 5th.

The Witness.—June 5th. It was two days before that time.

By Mr. Carlin:

Q. You hadn't enlisted at that time, had you? A. I was only out of the hospital a short period of time.

Mr. Stanchfield.— I object again to going into that.

The Chairman.— Well—

Mr. Stanchfield.— I suggest that two cross-examinations of the man who has the courage to enlist in the service of the United States from a sick bed after an operation for appendicitis is hardly called for.

The Witness.— At that time I had applied for admission to the officers' training camp and was waiting to go to the second camp of the officers' training camp.

By Mr. Carlin:

Q. Was it after this statement that I made as to why you hadn't enlisted that you went and enlisted?

Mr. Stanchfield.— I object to any further examination along that line.

The Chairman.— I think I will let him answer.

The Witness.— I had been waiting for admission to the second officers' training camp. No announcement had been made as to when the second training camp was going to convene, but I became impatient and enlisted before, as a private.

By Mr. Carlin:

Q. Don't you know that this meeting at Independence Hall took place while the debates were going on in Congress on the conscription law? A. No, it did not; it took place after conscription had become a fact, because the meeting was held ostensibly for the purpose of repealing the law, and the people should not register in the draft.

Q. Don't you remember that I appealed to those present to write to their congressmen to vote against the conscription law?

A. No, you appealed for the repeal of it, which was impracticable.

Q. You hadn't known me before that? A. Never saw you.

Q. Didn't know my name? A. I heard your name announced.

Q. That is the first time? A. The first time I saw you and I have not seen you since up to the present time.

Q. This was over three years ago? A. I believe so.

Q. You remember my name? A. I remember your name, because of the peculiar circumstances under which I met you.

Q. You never met me since that time? A. Never saw you.

Q. Over at my office? A. Never at your office.

Q. Do you remember being in my office in company with a young man? A. Where is your office?

Q. You know where it is. A. I am asking where your office is located.

Q. I am asking you? A. I don't recall of having been in your office; when do you refer to?

Q. In the month of May, 1917. A. No, sir, I never was in your office.

Q. Do you remember bringing a circular into my office, issued by the Marine Corps? A. No, sir.

Q. Do you remember showing me a circular in which the offer was made that if you enlist in the Marine Corps you will not have to go abroad? A. Absolutely not.

Q. And asking my opinion as to whether the government would keep its word on that subject? A. No, sir, that is a lie, and you know it is so. I never went near your office. I never saw the interior of your office in my life, nor did I know you prior to that meeting in Independence Hall.

Q. But you did remember me all along? A. I remembered you because people do not back down so completely like that every day. When a man makes a statement he generally backs it up. When a man offers me a platform he generally lives up to his agreement.

Q. But you did enlist in the Marine Corps in May, 1918? Didn't you? A. No, I enlisted in June. (Laughter and applause.)

Mr. Stanchfield.—As a part of the examination of Mr. Hart and in reply to some testimony not under oath that was given on the other side, I read an excerpt from the case of Victor Berger from the official proceedings of the House of Congress, being a report of the Committee dated October 24th, 1919, page 3, in which occurs this language:

“On April 7, 1917, on the call of the Executive Committee of which Victor L. Berger was one of the five members, there was convened in St. Louis an emergency National Convention of the Socialist party, at which Victor L. Berger,

Adolph Kramer, J. Louis Langdahl and William H. Kruse were all present and at which a proclamation, a war proclamation was adopted, a copy of which will be found on page 117 of Volume 2 of the printed hearings, and which ex-President Roosevelt characterized as treason to the United States. This proclamation and war proclamation was favorably reported to the Convention by the committee on war and militarism of which Victor L. Berger was a member and his name was signed to the report."

That is all of that. I think that is all, Mr. Hart.

In order to get the technical official information before the Committee I read into the record the text of the declaration of war, the joint resolution passed by the United States Senate and House of Representatives April 6, 1917, at 1:18 p. m.:

"Whereas, the imperial German government has committed repeated acts of war against the government and the people of the United States of America, therefore, be it resolved by the Senate and House of Representatives of the United States of America in Congress assembled that a state of war between the United States and the Imperial German government which has been thrust upon the United States is hereby formally declared and that the President be, and he is hereby, authorized and directed to employ the entire naval and military forces of the United States, and the resources of the government to carry on war against the Imperial German Government and to bring the conflict to a successful termination — all of the resources of the country — all the resources of the country are hereby pledged by the Congress of the United States."

Mr. Stedman.— I want some definite understanding whether Irwin, of the Call, is to appear? If not, I intend to ask the Sergeant-at-arms to bring him here.

Mr. Stedman.— I have asked that he be telegraphed to and understood it was to be served. I have no objection, if he isn't here, to send for him.

Mr. Stanchfield.— I am informed by my associates here that Mr. Block promised to produce that Call of February 1912, and they tell me that the language I spoke here in a moment of humor, to which he took such exception, was true, and does appear

there. I know personally nothing about it. If it is in that issue and Mr. Irwin isn't coming, I intend to send for him. I want to know if he will be here in the morning or if I shall have to send the Sergeant-at-arms after him.

Mr. Block.—I do not think it will be necessary to send the Sergeant-at-arms for him. He will be here in the morning.

Mr. Stanchfield.—I want him and want the paper of that date. You have no right to state to this Committee that that statement does not appear in it in the face of counsel on my side who state that it does appear in it.

Mr. Block.—You made the statement, Mr. Stanchfield, of your own knowledge; you made it as an assertion.

Mr. Stanchfield.—I didn't say anything of my own knowledge upon the subject.

Mr. Stedman.—It seems to me we started out here to try the qualifications of members and we have drifted into rather a haphazard discussion as to whether or not Socialists should have approved the war or should not, which really does not go to the question of qualifications. In this connection, I think a great deal of the evidence which has been admitted is far afield from legitimate inquiry as to qualifications, but I stated to counsel, and I mean to keep faith with him to the letter, that I would have that here if we had possession of it. If we do not, I certainly would not resist a subpoena or such other method as may be necessary to bring Mr. Irwin here or any files or any papers.

Mr. Stanchfield.—He has been served with process to appear here. What I am discussing is if we do not get what we ask for we intend to take proceedings to bring him here.

Mr. Block.—I want to say he has been sick for three days. He has been here almost a week waiting to be called as a witness. He is the editor of the daily paper and has to be in New York and cannot afford to be here listening to the proceedings.

The Chairman.—He can send a paper here if he cannot be here.

Mr. Stanchfield.—I ask the chairman, while the committee is in session, to sign the commission for the taking of the testimony of the witness Harris in Milwaukee.

Mr. Stedman.—Have you a duplicate copy of it?

Mr. Berger.— Yes, I have. (Paper handed to Mr. Stedman.)

Mr. Stanchfield.— I think that is all for the afternoon and I ask that we adjourn until tomorrow morning at half-past ten.

The Chairman.— You might file the proof of service of the subpoena on the witness.

Mr. Stanchfield.— I am going to rely for another 12 hours on the statements of counsel.

Mr. Stedman.— A thing of this kind is more or less expensive to the party (referring to paper signed by the chairman of the Committee on the Judiciary).

Mr. Stanchfield.— It could all be accomplished, of course, if counsel were willing to concede that the witness if here present and sworn would testify as follows: That would cover the situation.

Mr. Stedman.— I cannot concede that.

Mr. Roe.— I do not see the point of all of this red tape as long as we have agreed to take the deposition of this witness at a time and place to be agreed upon and all to be represented.

Mr. Stanchfield.— That is what the commission is for.

The Chairman.— Mr. Roe would like to have it inserted, or an understanding, as to the time and place when this commission is to be executed.

Mr. Berger.— I might say that commission has been drawn up strictly in accordance with the provisions of the Code of Civil Procedure. The customary practice is for the Commissioner to notify both sides of the time and place of the hearing, but we can stipulate now, if agreeable to Mr. Roe, the date of the examination for Saturday morning if that is agreeable. It is agreeable to us.

Mr. Roe.— Had we better put it Saturday or Monday?

Mr. Berger.— I simply say Saturday to give time. It will take about thirty hours for this to reach Milwaukee in the due course of the mails.

The Chairman.— Well, put it Saturday, to be returned here Tuesday. I have provided in that order for its return within three days, which is just half the usual time.

Mr. Stanchfield.—That would get it back here by the following Tuesday.

The Chairman.—There is no reason why that cannot be taken Saturday. It won't take over an hour to take it.

Mr. Roe.—Well, you had better make it in the afternoon; make it three o'clock in the afternoon, at this counsel's office.

Mr. Berger.—Will you state that as a stipulation on the record, three o'clock on the afternoon of Saturday?

Mr. Stanchfield.—It is hereby stipulated between counsel for the Committee and counsel for the five defendants in this investigation that the testimony of the witness Harris, referred to in the commission just issued by the Committee, shall be taken in the City of Milwaukee on Saturday afternoon, February 7th, at 3:00 P.M.

Mr. Stedman.—Make it between certain hours, because they may want to take it in the morning.

Mr. Stanchfield.—Between ten in the morning and —

Mr. Stedman.—Say between nine in the morning and four in the afternoon.

Mr. Stanchfield.—Between 9:00 A.M. and 4:00 P.M. Now, I move that we adjourn until tomorrow morning at 10:30.

Mr. Bedencamp.—May I now be officially relieved from the subpoena? I have been here twelve days subject to call. I am an official of a labor organization and I must return.

Mr. Stanchfield.—You need not remain any longer.

Mr. Bedencamp.—Is that the ruling of the court?

Mr. Stanchfield.—Well, I will take the responsibility.

(Discussion off the record regarding Milwaukee deposition.)

The Chairman.—The proceeding stands adjourned until tomorrow morning at 10:30 o'clock.

(Whereupon, at 5 P.M., a recess was taken until Thursday, February 5, 1920, at 10:30 A.M.)

STATE OF NEW YORK — ASSEMBLY CHAMBER

In the Matter of the Investigation by the Assembly of the State of New York as to the Qualifications of Louis Waldman, August Claessens, Samuel A. deWitt, Samuel Orr and Charles Solomon to Retain Their Seats in Said Body.

THE CAPITOL,
ALBANY, N. Y. *February 5, 1920.*

Present:

Hon. Louis M. Martin,
Hon. George H. Rowe,
Hon. James M. Lown, Jr.,
Hon. Edmund F. Jenks,
Hon. Edward A. Everett,
Hon. William A. Pellet,
Hon. Edward J. Wilson,
Hon. Charles M. Harrington,
Hon. Harold E. Blodgett,
Hon. Theodore Stitt,
Hon. Louis A. Cuvillier,
Hon. Maurice Bloch,
Hon. William S. Evans.

Appearances:

For the Judiciary Committee
Charles D. Newton,
Elon R. Brown,
Henry F. Wolff,
Archibald E. Stevenson,
John B. Stanchfield,
Arthur E. Sutherland,
Samuel A. Berger,
Thomas F. Carmody,
Martin Conboy.

For the Socialists
Seymour Stedman,
S. John Block,
William Karlin,
Gilbert E. Roe,
Walter Nelles.

HON. LOUIS M. MARTIN, Chairman.

(The Committee met pursuant to adjournment at 10:45 o'clock A. M.)

The Chairman.— Gentlemen, you may proceed.

Mr. Stanchfield.— If the Committee please, during the proceedings of yesterday, as counsel for the Committee, I made a remark to the effect that we had been unable to secure the attendance of Mr. Irwin, the editor of the Call, who had been subpoenaed under a duces tecum to produce the issue of Saturday, February 10, 1912, and in a remark sort of aside, I said to counsel upon the other side that that was the paper that carried in lurid headlines the expression, "To Hell with the Flag." Mr. Irwin is not yet here and in answer to my statement Mr. Block — and I read from the record — made this remark: "Mr. Stanchfield makes the assertion here that the Call carried in lurid headlines 'To Hell with the Flag;' that is an absolute falsehood and I challenge him to prove it."

Now, I have in my hand the newspaper in question, the New York Call of Saturday, February 10, 1912, published in the City of New York and you will all recall that Mr. Block, who made that remark, is the president of the company publishing that newspaper, and it appears here upon the issue I am about to mark in evidence, "S. John Block, President." I do apologize to the Committee for having said, or conveyed, the impression, if I did, that the lurid headlines contained the expression, "To Hell with the Flag," but I will read the article in its entirety and leave it for the Committee to say whether or no Mr. Block does not owe the Committee, irrespective of what his feelings may be toward opposing counsel, an apology.

Mr. Stedman.— What is the date?

Mr. Stanchfield.— February 10, 1912.

Mr. Stedman.— I want to object to it on the ground that it is remote.

Mr. Stanchfield.— Yes, it is remote.

Mr. Stedman.— On the action of the Committee —

Mr. Stanchfield.— It is remote in time, but it is pat in relevancy.

Mr. Stedman.—The point I am making is, it is remote in time. It seems to me ten years is rather a long time to find an article and charge it up to persons at the present time as their intent, and what was in their mind when they were 15 or 16 years of age; men who are presenting themselves for admission to this assembly are probably around the ages of 22 to 23, to 26 or 27; one is 25. At the time this was published they were 15 years of age. It is only under the theory of the most intolerable persecution that you can attribute a statement made ten years ago to a person who was then 15, and now some here and asks to be admitted to this assembly. I think it is entirely incompetent and improper.

The Chairman.—Overruled. You may read it.

Mr. Stedman.—May I see the article?

Mr. Stanchfield.—You have seen it and read it. I haven't any objection.

Mr. Stedman.—I have never seen it. I have heard it mentioned this morning.

Mr. Stanchfield.—Have you not read Goldstein's book?

Mr. Stedman.—I have read Goldstein's book.

Mr. Stanchfield.—Then you have read that article.

Mr. Stedman.—All right, if that article is published in Goldstein's book.

Mr. Stanchfield.—It simply shows that Goldstein chanced to be accurate once.

Mr. Roe.—Whereabouts is the article?

Mr. Stanchfield.—Right there (indicating).

Mr. Stedman.—You certainly are not boosting your reputation for accuracy if you want to stand back of Goldstein.

Mr. Stanchfield.—I do not stand back of Goldstein. I do not know anything about him. I have heard you make some reflections on him on the other side. I say in this instance he seems to be accurate.

Mr. Roe.—I call your attention to the fact that the article appears to be an article by an individual, appearing in connection

with the name of an individual, and not an article apparently of the paper.

Mr. Stanchfield.—The Committee can see it is on the editorial page of the "Call" and it has the headline "Respect the Uniform! Honor the Flag!" With an exclamation point after it, the significance of which is pretty apparent, and I think on the question of its remoteness it may be remote in time; but the charge that we are guilty of falsehood when we said it was published in the Call is absurd.

Mr. Block.—You will admit there is no headline reading "To Hell with the Flag!" That was the statement I challenged, and nothing else.

Mr. Stedman.—I object on another ground: Would it be competent in a charge against the Democratic or Republican Party to say that Attorney-General Bell, of Colorado, said "To Hell with the Constitution and to Hell with the Flag" at the time he was leading the strikers in Telluride?

Mr. Stanchfield.—I will say to counsel that I have been a member of the Senate of the State of New York and minority leader of the House, and if any member got up on either side and said "To Hell with the Flag" I would move to expel him.

Mr. Stedman.—Then I say that the Democratic Attorney-General of the Northern District of New York said "To Hell with the Constitution; our nation is in peril!" and that was on the 17th day of November, 1917, at 1:45 P. M.

Assemblyman Cuvillier.—If he did say it, he should be removed, Democrat or Republican.

Mr. Stedman.—He is your Attorney-General right here.

Mr. Berger.—When you say "The Attorney-General right here" whom do you mean?

Mr. Stedman.—I say Attorney-General Lucey. I do not mean the Attorney-General of this State.

The Chairman.—Proceed.

Mr. Stanchfield.—What jurisdiction would the Assembly of New York have over a Federal District Attorney?

Mr. Stedman.—I want to charge it up to the Democrats and Republicans, as you propose to do in that instance.

The Chairman.—In order that it may be correct, insofar as the gentleman stated it was the Attorney-General of the State, as I understand, he did not say it was the Attorney-General of the State, but United States District Attorney —

Mr. Stedman.—For the Northern District of New York, and his name is Hon. D. B. Lucy.

Mr. Brown.—Why “Honorable”?

The Chairman.—Proceed.

Mr. Stanchfield.—(reading):

“RESPECT THE UNIFORM; HONOR THE FLAG”

By Richard Perin.

“The capitalist class, alarmed at the amazingly rapid growth of anti-militarism in this country is endeavoring, through church and government, to combat this just sentiment, and by law and precept to create an artificial respect and love for the soldiers’ uniform and the American Flag.

“‘Respect the uniform, honor the flag,’ is their cry, and they are foolish enough to believe that if they raise their voices loud enough and long enough we, the workers, will become infected by their fictitious enthusiasm and shout with them.

“‘Honor the uniform!’ Oh, surely! Honor the trappings and the gold lace with which they are dressing up their weak-minded scabs! Honor the uniform which has the power to transform a decent but ignorant boy of the working class into an unthinkable savage who would, if ordered to do by a superior in rank, shoot down his aged father or kill his sister’s unborn child with a bayonet thrust should they happen to be on strike and crying aloud for a little more bread, warmer clothing and better shelter. Honor the uniform? No; spit on it! Make it a shame and reproach until a worker who wears it will not dare to show his face among decent working people.

“Honor the uniform! Honor that which gives a free license to kill if the victim happens to be a worker? Honor that which stands for oppression, for the loafer against the worker, for the master against the slave? Honor

that which causes a worker to become a traitor to his class, to forget his ties of blood, and for pay to deliver himself over body and soul to his natural enemy, the capitalist class? Honor the Judases, the Benedict Arnolds of the working class? Our masters insult us by even asking such a thing.

"Shall we honor the Massachusetts militiamen, who, without the slightest provocation, murdered a young worker? Is that what you want us to do, you capitalists, you cardinals and presidents? You ask too late, for we already despise and loathe your decorated hireling, and are, as time passes, making it more and more difficult for you to recruit our decent boys and transform them into loathsome parasites.

" 'At least honor the flag,' they cry in desperation. 'Honor the flag which stands for freedom, equality and fraternity.'

"What flag? The American flag? The Stars and Stripes? The flag which floats over every hell hole of mine and mill and prison? The flag which floats over every station house and barracks whence issue police and soldiers to batter down and murder workers exercising their constitutional rights of free speech and free assemblage? Honor the flag which you, our masters, have changed from a flag of liberty into a symbol for the cruelest exploitation and vilest oppression of the new civilization.

"If I had been Samuel Gompers when he was reproached by the capitalists for placing his foot on the American flag, I would have answered:

" 'Yes, I trampled on it, and more than that I spit upon your flag, not mine. I loathe the Stars and Stripes, once the symbol of liberty for all, but now the stripes represent the bloody stripes left by your lash on the back of the worker, and the stars the bullet and bayonet wounds in his breast. To hell with your flag!'

"There is and can be but one flag for which an intelligent workingman can have any respect, the flag of humanity, the flag of human brotherhood, the red flag of the working class. It stands for justice, for equality of opportunity, for the abolition of the war, the end of oppression and exploitation, for care free childhood, for glorious unfettered manhood and womanhood and for honored and protected old age.

"When the red flag flies above our homes and our nation, we shall honor it and love it. But until it does we refuse to recognize or respect any flag which is merely the symbol of and protects some national section of international capitalism. Down with the Stars and Stripes! Run up the Red Flag of humanity!"

Assemblyman Bloch.— Governor, is that article signed?

Mr. Stanchfield.— At the head of the editorial page by Perin.

Mr. Stedman.— Is it signed?

Mr. Stanchfield.— It is not signed.

Mr. Block.— Of course, it is signed.

Mr. Stanchfield.— Mr. Bloch asked me if it was signed.

Mr. Block.—I am sure you know the difference between a signed article, and when it is not signed.

Mr. Stedman.— Pardon me, you do not make the distinction between a contributed and signed article.

Mr. Stanchfield.— Which I said it was.

Mr. Block.— Bearing the name of the writer, and a signed article, is a different thing.

Mr. Conboy.— Undoubtedly, a very welcome contribution or it would not have been accepted.

The Chairman.— Proceed.

Assemblyman Cuvillier.— Mr. Stedman, for the record, you stated that the report on the vote of the Third International Congress of the Socialist party at Chicago had not been returned, that is, the vote on the minority. The Christian Science Monitor in an article dated Chicago, Ill., February 3d, states that the minority report of the International Socialist party was adopted by a vote of 3,475 for, and 1,444 against, the report. In other words, the minority report was adopted, which declares the Socialist party in support of the Third Internationale at Moscow, which dictated the world war dictatorship of the proletariat, and I want to show that you are against the minority report, against that statement, is that correct?

Mr. Stedman.—I am not on trial. I am defending the parties I am representing here. I think we have gone far enough in charging it up against individual opinions.

Assemblyman Cuvillier.—Mr. Berger, Mr. Engdahl and Kruse, who signed that minority report—

Mr. Stedman.—Mr. Berger did not sign it.

Assemblyman Cuvillier.—Wait a minute—Mr. Kruse did and Mr. Engdahl, who was convicted with Mr. Berger.

The Chairman.—I cannot let this go any further.

Assemblyman Cuvillier.—Well, Mr. Chairman, we want to get that straight on the record as to that minority report.

Mr. Stedman.—If you will ask me to ascertain it, I will endeavor to do so.

Mr. Conboy.—That is one of the lines of inquiry that we intend to pursue, and I think we will get the facts upon the record, and unquestionably Mr. Stedman will assist us.

Mr. Stedman.—If there are any returns in I will telegraph and see if the vote is in. I do not doubt that that is probably correct, but I have not yet reached the point where I want to put absolute faith in the Christian Science Monitor.

The Chairman.—Let us proceed.

The Chairman.—The record may show that the discussion between counsel and the Committee is eliminated with regard to the article in the Christian Science Monitor. The record also may show that on account of a very important personal matter Assemblyman Rowe is excused for the day.

PETER J. COLLINS (a witness heretofore sworn), resumed the stand:

By Mr. Conboy:

Q. May I ask a question again that I did not have the data on when I was examining yesterday; Mr. Collins, you were asked on preliminary cross-examination, in connection with Charles H. Kerr & Co., publishers of the International Socialist Review, these questions by Mr. Stedman, at page 655 of the printed record, "I say, did you see any advertisement in a bulletin advertising

Charles H. Kerr & Co., since 1912," and you proceeded with your answer this far: "That I would" when you were interrupted by the following question: "Have you seen any advertisement in the official organ, the American Socialist, advertising Charles H. Kerr & Co." You said: "I believe not, I wouldn't say positively, but other publications just as official have carried it." I show you the American Socialist for April 14, 1917 —

Mr. Stedman.— Now, I am objecting to it. When you did examine a witness, you cross-examine him for his recollection, for his knowledge, and I am objecting to that. If you wish to ask that on redirect, you may do so, when I finish.

The Chairman.— I think Mr. Stedman is quite right.

Mr. Conboy.— Now, Your Honor —

The Chairman.— No; I think Mr. Stedman is right.

Mr. Conboy.— If you will permit me I should just like to say that this was preliminary cross-examination in the middle of the direct examination. This incident to which I refer did not occur after the direct examination was finished. It had to do with qualifications of this witness, and of his information and of the connection between the International Socialist Review, to which he had referred, and the Socialist Party, and the attempt of counsel upon that preliminary examination was to show that the publishing firm of Charles H. Kerr & Co. was not regarded as a Socialist organization because it had not advertised in any Socialist publication, and particularly in the American Socialist, which counsel referred to.

Mr. Stedman.— You misunderstood —

The Chairman.— Just a moment. Last night I carefully read the record of yesterday's proceedings. I regard this witness as a very valuable addition to this case. He is a gentleman, evidently, of large experience. When he was allowed to state his — I will use the word "Conclusions," if I am not entirely out of place — to state what he knows about the situation it was very plain, but I found it continually broken up by disputes of counsel, so that to the ordinary assemblyman who reads it — he becomes tired. Now, it seems to me, the logical way is to let Mr. Stedman continue his cross-examination and the witness reply as best he can. Then counsel can conduct a redirect examination to explain all

those matters in a tangible and regular way. We lose the benefit of the testimony by having the matter broken up by counsel examining at one period and then another counsel examining at another, so that the record is so incomplete that it loses its effect, and I shall ask that Mr. Stedman continue his cross-examination, and then you proceed in your regular way to clear up all these matters, and I shall adhere very strictly to this rule.

Cross-examination continued by Mr. Stedman:

Q. Mr. Collins, did you belong to a society, the League to Enforce Peace? A. No, sir; I was just the labor secretary of the League to Enforce Peace.

Q. You did not belong to it? A. No, sir.

Q. You acted as an official for it? A. Representing labor.

Q. You acted as an official for it? A. I would say yes as representing labor I acted as the labor extension secretary for the League to Enforce Peace.

Q. How is that organization composed? A. I was only connected with that in that capacity from December, part of December, until March. I believe it was originally organized in Philadelphia sometime in 1915, with former President Taft as president of it.

By Mr. Stedman:

Q. The purpose and object of that association was to do everything that was possible to prevent war, was it not? A. I believe the war was on. It was to bring about peace, to try to bring about peace.

Q. You approved of that? A. I believe in universal peace, although I know that wars are inevitable.

Q. You believed in the purpose of a league to enforce peace? A. Up to the time when the covenant of Paris came up, when there was some difference of opinion relative to that Covenant and some sections of it — particularly Section 10 — that have since been brought into the political atmosphere of the nations of the world.

Q. Well, do you believe in associations for peace now? A. Oh, indeed, yes.

Q. Then the fact that the Socialist Party, in its international Congresses and in the various countries have declared for peace and opposed war movements from 1870 up to the present time,

is that one of the Socialist principles that you object to? A. The Socialist Party internationally and the Socialist parties of the world, nationally, have declared for a universal war, and not only failed to support efforts for peace, but voted for the war budgets to bring about the war.

Mr. Stedman.— Will the stenographer please read my question?

Mr. Stanchfield.— I submit that was a perfectly fair answer. What the witness meant was that the Socialist Party meant exactly opposite to what they said.

The Chairman.— Read the question.

(Last question and answer read by Reporter.)

The Chairman.— That is hardly an answer. Strike it out. Answer the question as best you can.

The Witness.— Will you repeat the question again?

(The question was again read by the Reporter.)

Mr. Conboy.— If the Committee please, I think the witness's answer was responsive, if the Committee will reconsider it a ruling upon that.

The Chairman.— Mr. Conboy, your objection should have gone to the question.

The Witness.— I will amplify the question.

Mr. Stedman.— I beg your pardon; I will amplify my own questions.

The Witness.— I meant to say the answer.

Mr. Conboy.— I think the witness's answer is responsive.

The Chairman.— I stand on my ruling.

The Witness.— Now, if you will repeat the question — well, all right, I get the question.

A. (Continued). The Internationale of Socialism, while declaring here and there in its declarations that it stands against war, declares for a universal war of all the nations to bring about the destruction of the present order; that when the time came that this present or recent conflict had reached its crucial stage when

it could be stopped, the only element that had declared that could stop it —

Mr. Stedman.— I am not asking for what they did; I am asking for what is in this man's mind; that is what I am asking for; I am asking whether in his mind he approves or disapproves of the certain proposition. What they did I apprehend I can get out by a different question.

The Chairman.— Continue your answer.

The Witness.— But when the crucial time came, when this conflict could have been stopped according to the academic questions of Socialism, internationally and in its national centers,— for instance, just as Germany in the German Reichstag, every member of the 110 members of the Socialist Party officially went on record with one exception of Carl Liebknecht, and he was expelled from the party for refusing to vote for the war power to bring about the war. Therefore, giving a direct answer to the gentleman's question, I would say that I am absolutely opposed to Socialism's proposition for a universal war, because it is worse than any war of nations.

By Mr. Stedman:

Q. In 1863, when Napoleon the Third and Palmerston were proposing to open the Assize to Southern States and the Socialists called a general strike which took place in England and in France, including all workers and professionals to prevent Palmerston and Napoleon III from openly coming out for the South, at which time Karl Marx as you know was the London correspondent of the New York Times and Tribune, and used his influence in favor of the North as against the South, would you approve as a matter of principle of the Socialist organizations, mass demonstrations and strikes in England and Italy to prevent them entering the war by openly taking sides of the South against the North? A. The Socialists took no such action because there was no Socialist Party in England to take that action.

Q. I see. A. They positively took no such action.

Q. There was no Socialist Party? A. There was no Socialist Party to take that action.

Q. Was Marx there at that time? A. He was.

Q. Was Engels there at that time? A. He was.

Q. Was Heinemann there at that time? A. He was.

Q. Heinemann was a Socialist, wasn't he? A. Heinemann has been a Socialist close on to thirty-five years' standing, and that does not go back to the time.

Assemblyman Cuvillier.— They were banished from Germany on account of Socialism.

The Witness.— They were exiles from Germany because of their advocacy of violence while in Germany and by their writings afterwards.

Q. You are an expert on socialism, is that right? A. I would say so (laughter).

Q. Who first used the term socialism? A. Robert Owen, the Englishman.

Q. When did he live? A. He used that term first in 1835.

Q. And it was Robert Owen's son who came to the United States? A. Robert Dale Owen, yes.

Q. And William Allen Channing and others organized a co-operative establishment — A. They were not Socialists; they were —

Q. I asked you whether they came here. A. I thought you were seeking information.

Q. When I do, I know where to go for it. At the present time I am asking you questions. They came here — his son? A. I would say that Robert Dale Owen came —

Q. In 1837, that was about the time that Owen organized the co-operative establishment in New Leonard? A. In where?

Q. In New Leonard? A. Just about.

Q. Do you mean to say they did not have a party after that? A. I do; not for a considerable period. Had no party before that and that those of the Socialists — in fact, Marx's writing the manifesto —

Q. I am not asking for your opinion, as to whether or not he was? A — distinguishes the opinion that these were not Socialists, and if you want it read into the record officials from Marx, I will be glad to read it. The manifesto of 1847 entirely repudiates that, and Engel's Utopian Socialist entirely repudiates them as being Socialists.

Q. They had a party, did they? A. They did not.

Q. When was the first Internationale? A. The First Internationale was formed in 1864, in London.

Q. Was there any organization of workers preceding that? A. You mean there was an organization of the communist league who requested Marx and Engels to write the manifesto of 1847-83.

Q. And the communists existed in France? A. In England they had a league also.

Q. I say, both in France and England? A. I would not say they existed in France.

Q. Have you followed Bucharin any? A. He was an Englishman, not a Russian.

Q. Was he living in Russia at the time? A. He was exiled from Russia.

Q. He was in France at the time? A. I do not know.

Q. You are following his literature frequently? A. Very slightly.

Q. You do not know whether he was in France? A. He was in England in 1864. He was definitely in England in St. Martin's Hall.

Q. Then in 1863, where was he, on the 4th of January, at 6 o'clock in the morning? A. He was probably associating with a Mr. Stedman.

The Chairman.— That may be stopped.

By Mr. Stedman:

Q. Do you know who Curdon was? A. Yes.

Q. He was a Frenchman? A. Yes.

Q. And he was with a Communist League, was he not? A. Yes, sir.

Q. And is it not a fact that the Communist League — A. By the way, he advocated a Communist League. I do not wish to have you identify my statement with any organization of the Communist.

Q. The Communist League existed both in France and England? A. Oh, there was a league —

Q. And did they not have fraternal delegates? A. There was League of the Just, and there were several groups of workingmen under various names.

Q. And their organization was the organization that declared a general strike and demonstration against Palmerston and Napoleon III, was it not? A. Not to my knowledge, no organized group ever declared a strike against the action of Palmerston.

Q. Do you remember such a demonstration taking place? A. It is contended that there was a demonstration of workmen — trade unions — and undoubtedly it was so organized — labor movement — and entirely antagonistic to Socialism and the Communist League, a group that did express its dissatisfaction with the attitude of the English Government in officially intriguing with the South for the dissolution of the Union.

Q. That was mass action, was it not? A. It was not.

Q. Are you a member of any secret organization which has for its object opposition to Socialism?

Assemblyman Cuvillier.— I object to that question.

The Witness.— I will be very glad to freely answer.

Assemblyman Cuvillier.— I object.

The Chairman.— Overruled. Go ahead.

The Witness.— Do you wish me to answer?

The Chairman.— I have overruled the objection. If you desire to answer, you may.

The Witness.— I belong to the Knights of Columbus, an organization that has for one of its purposes the inculcation of the principles of patriotism and the deepest love of country and affection for the flag of the United States and the Constitution of the United States, and the deepest reverence and respect for God, the Creator, and for His laws, the Ten Commandments; and this organization, feeling that it is necessary to fight every enemy of both God and country, believe it absolutely essential now — and that it has been for many years past — to fight what it considers one of the most insidious menaces to the cause of the American Constitution and patriotism and the American flag; and, therefore, it is devoting a part of its energy in combating Socialism.

Mr. Stedman.— Mr. Stenographer, will you please read the question to the witness?

Mr. Conboy.— I submit, if the court please, that it is not necessary to read the question to the witness; that the answer of the witness indicates he understands the question, and the answer is entirely responsive to the question.

Mr. Stedman.—What he has done is to state the purpose in a vague way. He has told that the K. of C. love God, their home and country.

The Chairman.—The record may be put back to the end of the answer of the witness. All this discussion may be stricken out. The discussion of counsel. Now, proceed with your examination.

By Mr. Stedman:

Q. Do you belong to a secret society which has for its object opposition to Socialism?

Mr. Conboy.—I object to the question on the ground that it is repetition.

Mr. Stedman.—It can be answered yes or no.

The Chairman.—Objection sustained. The answer stands as given by the witness.

By Mr. Stedman:

Q. Am I to understand from your answer that you belong to the Knights of Columbus and that that organization is opposed to Socialism? A. Yes, and it is not a secret organization.

Q. Do you mean to say the meetings are open, like the Socialists', so that anyone can walk in and listen to the initiation and the ritual? A. No. I mean to say there is nothing secret; that anyone who is anxious to find out what took place can do so. It is not an iron-bound organization.

Q. Can anyone join the organization?

The Chairman.—I do not see how this is important.

Mr. Stedman.—I do not think it is.

The Chairman.—Strike it out.

Mr. Stedman.—Very well. If the witness will answer my questions, I will not follow on his various trails. I am quite willing to limit my examination, but I object to being carried all over the earth and back again.

The Witness.—If the counsel desires —

Mr. Conboy.—There is no question pending.

The Chairman.—There is no question pending. The record as

I observed it last night is in such a chaotic condition that no one can read it — understand it.

Mr. Stedman.—I believe it. If you ask a question calling for an answer yes or no, he makes a speech.

The Chairman.—The Stenographer will cease taking the minutes until I instruct him to go on.

By **Mr. Stedman**:

Q. Who pays you for your lectures? **A.** The Knights of Columbus.

Q. How long have you been in their employ? **A.** Oh, about eight years.

Q. In 1905 the lawyers and the doctors and the workingmen of Russia ceased work to force the Czar to provide for a Duma. Would you call that mass action? **A.** Not in the sense that you would use the term “mass action.”

Q. Would you call it mass action in the sense that you would use the term “mass action”? **A.** I would not.

Q. Then it would not be mass action in the sense in which I use the term and it would not be mass action when you use the term? **A.** I quite agree that is so.

Q. So you know in what sense I use the term mass action? **A.** I do.

Q. Assuming I mean by mass action the collection of individuals irrespective of occupation who cease work and emphasize an expression by demonstration against a political program or urging an affirmative action of a political character,—assuming that to be my understanding of it would you change your answer?

A. That is not mass action, as I understand you to understand it, or as I understand it.

(Discussion off the record).

The Chairman.—Now, what is your question?

Q. Now, define “mass action.” **A.** I would say that is not mass action.

Q. Now then, assuming that it is a mass action, would you approve of it? **A.** By all means.

Q. I believe you mentioned the exclusion laws passed in Germany in 1878 in your direct testimony, did you not? **A.** I did not; I believe one of the representatives mentioned something

about it and I said I wasn't familiar, but thought such laws had been passed.

Q. You are not generally familiar with the different exclusion laws passed in Germany? A. Oh, yes; to a considerable degree, but I wouldn't attempt to define each one in their order. I would be glad to comment on them.

Assemblyman Cuvillier.— But they were passed, Mr. Stedman?

Mr. Stedman.— Yes, sir.

Assemblyman Cuvillier.— The suppression of the Socialist Party?

By Mr. Stedman.— Yes, they did. Bismarck did it; the Kaiser, and it did not work.

The Chairman.— The stenographer will cease.

(Discussion off the record.)

The Chairman.— What is your question?

By Mr. Stedman:

Q. Now, Mr. Collins, would you approve of the action of the Socialists taken in Germany when they opposed the government and opposed legislation in favor of the right of the Catholics to elect representatives to the Reichstag? A. They did not take that action. I would approve it if they did.

Q. Assuming that they did would you approve it? A. Yes, there is nothing that the Catholic stands for or believes in that is disloyal to his country.

Q. You don't know that the laws were passed in Germany which disenfranchised the Catholics subsequent to 1860, do you? A. There were laws passed that disenfranchised Catholics, yes.

Q. Subsequent to 1871? A. I wouldn't pretend to say.

Q. When was the Empire founded, 1871; the constitution was adopted in 1871? A. If you state that is so as a fact, I will admit it as a fact; that is, the founding of the Constitution and the Empire.

Q. I wish to read you the following and ask your opinion of it:

“The Socialists of the United States of America offer their deepest sympathy and their brotherly hand to the European workers now in the midst of a World War. It is necessary

to dwell upon the ravages of this terrible conflict. History will sit in judgment, but we must express our sorrow that workingmen of the most enlightened countries of Europe, bound by the ties of international brotherhood and solidarity, are today arrayed in bloody combat against each other. We do not presume to pass judgment upon the conduct of our brother-parties in Europe. We realize that they are victims of the present vicious industrial, political and military systems, and that they did the best they could under the circumstances. Our country, however, has remained neutral in the present conflict. We, therefore, considered it our duty to address an appeal in favor of peace to our unfortunate comrades in the nations at war, as well as our comrades in the nations not at war. We are not now concerned as to what government was the aggressor in the terrible conflict; nor is that the question of great importance. History will sit in judgment on this also. We appeal to you in the name of socialism, and acting in agreement with your own proclamations, we ask you to help us to stop this mass murder. You yourselves in every country have declared that this war was not of your choice. Your noble and eloquent declarations still hold good. We know that no nation can gain by the continuation of this war. Whatever rewards and advantages will come from it will go to the ruling classes. All the sacrifices, sufferings and sorrow it will entail will fall to the lot of the workers, and every day that the slaughter continues thousands of our comrades and brothers are killed. At the International Congress in Stuttgart, a resolution was adopted by which the International Socialist movement pledged itself, not only to make every effort to avert the outbreak of war, but also should war break out to strive with all our might to bring the war to a speedy termination. The Socialists of the war-stricken European countries have worked faithfully and heroically in the spirit of the first part of this resolution, but their voices were silenced by the cannon of hostile armies. Capitalist militarism proved stronger than the young spirit of socialist brotherhood. The socialists of the world must now proceed at once to the realization of the second clause of the resolution to work a speedy termination of the war. The International Socialist Bureau does not function at the present time, therefore the Socialist Party of America deems it its

duty to invite all countries represented in the International Bureau to send their regular number of delegates to an extraordinary peace session of the International Socialist and Trade Union Congress, to be held either in Europe or in America, at a date to be fixed as soon as acceptances are received from the various Socialist Organizations represented in the Bureau. We request the Socialist Party or other labor body entitled to a delegation at the International Congress to indicate its preference as to whether the congress shall meet in Europe or America, offering the suggestion that a choice be made between Copenhagen and The Hague. We earnestly invite our comrades to meet in the United States, at Washington, D. C., and in case our European comrades decide to meet in America, in order to assist in the success of this Congress, the Socialist Party of America offers to pay all the necessary expenses of five delegates from every nation entitled to twenty votes, and in proportion for the delegates from every nation, the minimum to be two delegates, according to the representation established by the International Socialist Bureau. The agenda of this Congress shall be the discussion of ways and means to most speedily and effectively stop this war, and such other matter as may pertain to the subject of world's peace. Comrade, in the name of the past achievements and future hope of humanity, in the name of the welfare of future generations, we issue this call and urge your favorable and immediate response. We ask that action be taken at the earliest possible moment and reply made according to the directions herewith from our National Executive Secretary."

That was adopted before we were in the war; do you disapprove of that as a Socialist sentiment?

A. Before commenting on that I would rather have you read the full text, as long as you have introduced it by reading thus far, because you are reading what purports to be what appeared in a book issued by the Rand School of American Socialism. You have not thus far read that part which shows the action contained in that very book of the St. Louis Congress where it declares the unalterable opposition of the Socialist Party against the war.

Q. I am asking you for your opinion on the declaration of 1914, three years before 1917. A. In answer to that I would have to

withhold my answer until I heard the complete action, because that is only the preliminary action prior to the Congress which declared its unalterable opposition to the war on the part of the United States which is issued by the Rand School and it is not the official declaration itself. It is a copy, and as copies have been called into question I would rather have the whole thing read.

Q. Now, assuming for instance this is correct, what is your opinion? **A.** I cannot assume until I heard.

Q. You do not wish to answer hypothetically? **A.** Not in this connection, because it is too important.

Q. You are testifying as an expert and not hypothetically? **A.** I am testifying exactly to my knowledge and to the facts; and I have read that book over and over again. I know where it come from; I have a copy of it in my bag and it is marked.

Q. That is good. **A.** If you will read that clause afterwards adopted by the convention —

Q. I am speaking of 1914. When I get to 1917 I will ask your opinion about that, but I thought you might have an opinion.

The Chairman.— Mr. Stedman bases his assumed question —

Mr. Stedman.— On the declaration on the state of facts prevailing in 1914.

The Chairman.— Of 1914,— which starts in with the proposition to the American people and recites the exact words that have been read into the record. His question is, assuming that that was issued in the words that it was read to you, would you approve of the sentiments therein contained? That is the substance of his question. I think he is entitled to an answer.

The Witness.— I will be glad to give it to him if it had been sincere. I would be glad to.

The Chairman.— He is entitled to an answer on that.

The Witness.— Is he entitled to a specific answer, yes or no?

The Chairman.— Well, as near as you can make it, yes.

The Witness.— The action, of course, is not an official action of the Socialist Party. It is the action of the committee of the party.

The Chairman.— Assuming it was sincere.

The Witness.— I see nothing objectionable in that prior to our country entering the war.

The Chairman.— Providing they meant what they said?

The Witness.— Exactly.

Mr. Stedman.— And, of course, you know they did not mean what they said? That is, you feel that way?

The Chairman.— Proceed with the question.

Mr. Stedman.— I want to read one more.

Mr. Block.—(Reading) “The International Congress which the Socialist Party was promoting did not materialize. A conference of Socialists —”

The Chairman.— Wait a moment.

(Discussion off the record.)

Mr. Stedman.— Assume that there was no International Conference resulting from the resolution which has just been read and under those circumstances Morris Hillquit was instructed in December, 1914, by the National Executive Committee as follows: Would you regard the statement under the conditions I have read as containing sentiments, expression which you would approve?

Mr. Conboy.— That is not on the record, nor are the sentiments or the intention to ask his opinion incorporated.

Mr. Stedman.— No, I am putting a hypothetical question.

The Chairman.— Let me see how much there is to that.

Mr. Block.— That is very short.

Mr. Stedman.— It is only two paragraphs.

The Chairman.— Now, the record may be stricken out.

(Discussion off the record.)

Mr. Stedman.— Assuming an International Congress which the Socialists were promoting did not materialize and the National Executive Committee instructed Mr. Morris Hillquit to communicate as a delegate for the conference with the European

nations and adopted pursuant to that object the following in December, 1914:

"The International Congress which the Socialist Party was promoting did not materialize. A conference of Socialists from neutral nations was called to meet January 15, 1915, in Copenhagen, Denmark.

"The National Executive Committee of the Socialist Party, meeting in December, 1914, instructed Morris Hillquit, the delegate to the Conference from the United States, as follows:

"The National Executive Committee of the Socialist Party of America, in anticipation of some action by the approaching International Conference of delegates of the Socialist Parties in neutral countries, that will tend toward a speedy termination of the present European war, and on some basis which will afford preservation and extension of the civil rights of the workers of all nations, hereby instructs the delegate representing the Socialist Party of America as follows:

"First, the provision that all the adult inhabitants of those countries engaged in the present war shall be constitutionally protected in the enjoyment and exercise of political rights unrestricted by property, religious or racial qualifications.

"Second, and, specially, a provision that in each of those countries where peace is concluded, adequate constitutional measures shall be created to secure the people of the Jewish race in the full enjoyment of equal civil, religious and political rights with all other races."

Q. Would you approve that? A. Absolutely. I can see no objection to that. The United States on the racial question, I believe, has some law regarding the Japanese. I wouldn't want to be put in the position of commenting in opposition to any State law or any of the treaties of our country observing and respecting those laws.

Mr. Conboy.—You don't intend to be understood as commenting adversely upon any State policy with regard to the character of its inhabitants?

The Witness.—Absolutely not, but the general tenor I would hardly approve, the spirit.

By Mr. Stedman:

Q. Do you recall there was an attempt made to meet at Copenhagen for the purpose of holding an international conference of Socialists and trade union representatives? A. Of Socialists, not trade union representatives.

Q. Well, all right, of Socialists during the war? A. There was.

Q. The object was to try and terminate the war? A. I believe not.

Q. The object expressed was to try and terminate the war? A. The object expressed in many sources was to aid Germany to win the war.

Q. Will you tell me one Socialist party going there that so acted? A. Morris Hillquit in every endeavor was going to be a delegate.

Q. Morris Hillquit was going to aid Germany? A. Undoubtedly. You have asked my opinion. I have given it.

Q. Yes, I know. And were the English delegates going there also to help Germany? A. I think not, no.

Q. Well, they wanted to go, did they not? A. Some of the Socialists did, yes, sir; those that had any labor sympathies did not.

Q. I mean those that were elected by the workingmen without working class sympathies? A. Not elected by the Socialists — selected by the Socialists.

Q. Well, selected by the Socialists — they were not going to the conference to help Germany, were they? A. No, I believe not.

Q. Were the Danes going there to help Germany? A. That would simply be giving an opinion on a broad field, where the information was not conclusive as to our country. I have expressed it with regard to the American Socialists particularly.

Q. Were the Italians going there to help Germany? A. I believe not. The Italians at that time had not been in the war, and they were not, as I recall, selecting representatives to attend the conference.

Q. Which conference have you in mind? A. The Copenhagen Conference you have referred to.

Q. Don't you know that there were two conferences proposed? A. Three or four.

Q. Do you mean to say there was not one proposed in 1915, 1916 and 1918? A. You have mentioned 1914.

Q. I will withdraw the 1914 because I never **knew** there was **one to be held in Copenhagen in 1914**. A. I understood you said there was.

Q. The Internationale in 1914 was **to be held in Brussels**, was it not? A. That is my understanding of what you said.

By **Assemblyman Cuvillier**:

Q. Mr. Collins, was the Socialist Party, in **your opinion**, in **sympathy with Germany during the war**? A. Unquestionably.

Mr. Steadman.— Whose sympathies?

Assemblyman Cuvillier.— The Socialist Party of America.

By Mr. Steadman:

Q. Mr. Collins, have you followed the attitude of the Socialist Party of the United States toward Germany? A. Fairly well.

Q. Do you remember a session of the Legislature in Massachusetts, at which Mr. James H. Cary was a member of the House? A. Mr. James H. Cary has not been in the Massachusetts Legislature for many years.

The Chairman.— I do not think that is competent.

Mr. Steadman.— Yes, it is.

Q. Can you tell me of any expression by a Socialist writer, in which he advocated the cause of the German Imperial Government or the Austro-Hungarian Government, or advocated its success in the war, by any Socialist writer; I mean any person who has attended a convention as a delegate or a contributor to any paper owned by Socialists? A. Do you want me to answer?

The Chairman.— Yes.

A. I can, if you furnish me the files of the New York Call from the beginning of the war; the files of the Milwaukee Leader, edited and controlled by Victor Berger; the files of the Chicago Daily Socialist, and the complete minutes of the Executive Board of the Socialist Party; also the lists of delegates to the sessions and conventions during that period.

Q. How long did you read the American Socialist? A. I did not say the American Socialist.

Q. What did you say? A. I said the Chicago Daily Socialist — the new Chicago Daily Socialist. The old one, that went out of existence prior to the war, I do not refer to — the one now being sold in Chicago.

(Discussion off the record.)

By Mr. Stedman:

Q. Do you get all your information from the same source that you got your knowledge of a Chicago Daily Socialist? A. Do you want me to answer that?

The Chairman.— Yes.

A. I got my information on Socialism from authorities.

By Mr. Stedman:

Q. There was a Chicago Daily Socialist and it went busted about eight years ago? A. Yes.

Q. Did you ever hear of a daily from that time on? A. Yes, the Socialist Party has a daily in Chicago.

Q. They have? A. Yes, sir. Pardon me. It may be possible. I would not pretend to be infallible in this connection. It may be a weekly, the old daily turned into a weekly. If I am wrong I want to correct that misapprehension.

Q. Do I understand you have condemned Socialists in Germany because they supported their government? A. I did not condemn the Socialists in Germany for supporting their government.

Q. Did you criticise them for that; did you criticise them for that? A. As an American I would during the war. After our country entered into the war I would have very strong feelings about them. Of course, the action was taken by the German Socialists before America entered into the war, and the feelings, hardly, of an American there were not directly concerned.

Q. You know, of course, that the Socialists in Germany voted against the war credits in 1915-1916? A. The Socialists voted for the war credits as a party when the war was declared, with the exception of Liebknecht.

Q. I am speaking of 1915-16? A. That I would not pretend to say, because I have not access to the information.

Q. You had access in 1914? A. Yes, the record was printed the world over. What happened afterwards, was, of course, for Germany's benefit to circulate.

Q. Was it for Germany's benefit to show that on March 21, 1915, there were thirty Socialists left the Chamber; and on August 20, 1915, twenty-nine Socialists left the Chamber; December 21, twenty-two Socialists left the Chamber and on March 25, 1916, also? A. I would have to see the information and the sources from which they came to know that that happened.

By Assemblyman Cuvillier:

Q. Right now, Mr. Chairman, I want this for the record. I asked you before, in your opinion, was the Socialist party of

America against the war between the United States and Germany? I want to know your opinion on that? A. During the war?

Q. Yes, sir; between the United States and Germany and the Allies? A. During the war my firm conviction, as founded on my experience, and I am only expressing from my knowledge of the facts as I have made them, was that with very, very few exceptions and these exceptions generally noted by the resignation from the party itself, the Socialists of America generally, and in a large majority, were unqualifiedly with Germany during the war, even when our country entered the war. I say that absolutely without prejudice whatever.

The Chairman.—Anything further?

Mr. Stedman.— Oh, yes; just one second.

Q. Were you familiar with the election in Milwaukee at which Berger was a candidate for Congress? A. I was.

Q. Do you remember that he was defeated as a candidate for Congress? A. Yes, I took part in the campaign against him.

Q. Did you? A. At the time he was defeated.

Q. Yes, sir. And when was that? A. I believe that was in 1913.

Q. Oh, no. I mean of more recent date? A. You ask during the time he was defeated.

Q. He was defeated during the war? A. No, he was unseated. You mean recently?

Q. Yes? A. He was only recently re-elected. He was elected during the last Congressional campaign, and then unseated by Congress.

Q. What year was that? A. Two years prior to the time.

Q. 1918, wasn't it? A. Yes, I think it was.

Q. 1916, he was defeated? A. That was one of the times. The first time he was defeated,—

Q. Were you there in the election of 1916, when he was defeated? A. I was not there during the campaign. I was there later.

Q. Did you follow it? A. Not very closely; not that particular campaign.

Q. Did you pay enough attention to it to familiarize yourself with the fact that he was defeated because of the campaign made against him as anti-German? A. Oh, no, that is ridiculous, that statement, because I know it is just the reverse. Pardon me,

I do not mean to say, or impugn the statement of the Chairman, that it is ridiculous for him stating it. It is a ridiculous conclusion. That is entirely apart from the fact.

The Chairman.— You mean of counsel, not the Chairman.

The Witness.— Pardon me, of counsel. If you want anything on the Milwaukee situation —

Mr. Stedman.— I am going to ask you some questions. I am looking them up now.

Q. Your debate between the Socialists was, "Resolved, that the Socialists are opposed to God, country and religion?" A. Many times.

Q. And the family? A. Many times it would be resolved that Socialism was opposed to the interests of the workingmen; resolved that Socialism was opposed to the labor movement, or resolved that Socialism was opposed to God, country and the labor movement, combining the three.

Q. You asserted they were? A. I did.

Q. And you asserted they were? A. I did.

Q. And they debated with you? A. Yes, and they did not contradict.

Q. They debated with you because they disagreed with you, didn't they? A. They debated with me because I was opposed to Socialism; yes, sir.

Q. They did not debate with you because they disagreed with you? A. Oh, yes; certainly.

Q. That is what I mean; they disagreed with you, and you said they were against God, they were against country and they were against family, and they took the side in opposition to you on that question? A. No. Well, now, do not confuse the question. They might have disagreed with me, as Peter Collins, but they did not disagree with me when I was setting forth authorities of Socialism, which I set forth, because it was not Peter Collins that was declaring this. Peter Collins was proving by the authorities of Socialism that Socialism was opposed to God, country and the labor movement, and while they personally disagreed with Peter Collins they could not refuse to accept his challenge, and when they did accept his challenge and the production of the authorities was evidence, they had the debate with the authorities of Socialism and not with Peter Collins.

Q. They did not come there to refute the subject of the debate; they came there because they did not like Peter Collins? **A.** Many of them undoubtedly came because they did not know what Socialism was, and they did not believe it was opposed to God, country and to the labor movement. That is undoubtedly true. That is the information received.

Q. That was so of those that came to debate with you? **A.** Not all of them.

Q. Some of them? **A.** A few out of the many.

Q. A few out of the many came to you sincerely believing that Socialism was not against God, country and the labor movement? **A.** Undoubtedly, but none of those that I mentioned, of Wanhope and of Warren, and the list I gave here the other day, in which I cited hundreds of others I had debated with, and they clearly did.

Q. Gaylord was a Congregational Minister, wasn't he? **A.** He was, and when he became a Socialist his congregation asked for his resignation and he had to get out.

Q. Is that so? **A.** I believe so.

Q. You believe that? **A.** Yes.

Q. I won't quarrel with your beliefs; you are entitled to your beliefs. **A.** I was in the town where he served and that was the information they gave me.

Q. Gaylord and Carl D. Thompson were both Congregational Ministers? **A.** Yes, ex-Congregational Ministers — yes, they were.

Q. You debated with Gaylord? **A.** Yes, twice.

Q. Do you think he was sincere? **A.** When he was the official representative of Socialism I debated with him. I understand he isn't now a member of the Socialist Party, if that is worth mentioning.

Q. Do you think he was sincere when he debated with you? **A.** I do not.

Q. He believed in God, didn't he? **A.** I never heard him express that he did.

Q. You didn't? **A.** No.

Q. You listened to him? **A.** Yes. In fact, my information was just the reverse.

Q. Ever hear of St. John Tucker? **A.** Yes.

Q. He was rector of St. John's Parish or assistant? **A.** I never heard that personally.

Q. And his father is rector of St. John's at Mobile, Alabama; you never heard of him? A. I have been in Mobile but I never heard of his father.

Q. He is rector of St. John's? A. I don't know.

Q. Bishop Spaulding? A. Which Bishop Spaulding?

Q. Peoria, I believe. A. You are mistaken, Bishop Spaulding was the Catholic Bishop who has been dead some years. You are referring to the Bishop Spaulding of Utah.

Q. I am referring to the Bishop Spaulding of Peoria. A. He was a Catholic Bishop and wrote a pamphlet against Socialism.

Q. Have you that in your collection? A. Yes.

Q. Here? A. No.

Q. Are you married? A. Yes, and have five children.

Q. How long have you been married? A. Seventeen years.

Q. And five children? A. Yes,—doing fairly well, considering; how many have you? Remember, I have been traveling three hundred thousand miles.

Q. You have books and papers with you? A. I have many.

Q. Will you now find a clipping of the statement of some Socialist supporting the Kaiser and endorsing him? A. I have asked you to furnish me with the list I asked for and I will be glad to furnish you with an abundance of it. May I say this: that I did not know at the time that I was subpoenaed that I was about to be subpoenaed. If I had, I should immediately have gone to Boston and got an abundance of material that I used in the course of my lectures. What I have here is just a very, very small amount, because in connection with my other work in the reconstruction and educational work of the Knights of Columbus, part of my time is devoted to that activity, consequently I am asking for this so it will come from that source.

By Mr. Stedman:

Q. You do not believe in classes or that there are class conflicts? A. Not in the sense that Socialism believes in class conflicts.

Q. Do you believe it in the sense of there being a capitalist class? A. I would say that there are a group of capitalists that properly might be designated as a capitalist class, although they are a very, very small minority.

Q. Would you endorse this statement:

“Whereas, a struggle is going on in all nations of the civilized world between the oppressors and the oppressed of

all countries, a struggle between the capitalist and the laborer, which grows in intensity from year to year, and will work disastrous results to the toiling millions if they are not combined for mutual protection and benefit." Would you say that is correct? A. It is not correct.

Q. I have been reading from the preamble of the American Federation of Labor, and have read it carefully and accurately. I purposely stopped reading at the end of that paragraph, because if I had not, I expected a different answer. (Continuing reading):

"It, therefore, behooves the representatives of the trade and labor unions of America, in convention assembled, to adopt such measures and disseminate such principles among the mechanics and laborers of our country as will permanently unite them to secure the recognition of the rights to which they are justly entitled.

"We, therefore, declare ourselves in favor of the formation of a thorough federation, embracing every trade and labor organization in America, organized under the trade union system."

Q. Now, you approve of that, do you? A. I will still stick to my answer. I do not approve of the first part. I do approve of the resolution for the organization of the workers into trade unions. I do not believe, and do not approve, of the declaration that there is a class consciousness, as expressed in the resolution—class antagonism and a class struggle. The Federation of Labor do not say there is. Let me see it, please. (Mr. Stedman hands to witness.)

The Witness.—This is not the American Federation of Labor. May I put it in the record? That is the Rand School of Social Science from New York.

Mr. Block.—That book was offered in evidence.

The Witness.—I still stand by my declaration.

Mr. Stedman.—Page 59, and it is the American Federation of Labor.

The Witness.—I still stand by my declaration. There is nothing inherently antagonistic between the workers and employers, between capital and labor as such, wherever it comes from.

By Mr. Stedman:

Q. You believe in cooperative movements? A. Whenever they are founded upon a just basis.

Q. You believe in insurance? A. I do.

Q. For accident and compensation? A. I do. I have helped to get laws on these subjects.

Q. Yes, sir. Those are Socialist declarations? A. They are not. That is some of the molasses the Socialist puts in the platform to catch the flies. It is not Socialism. Every one of those measures were fought by the Socialist Party of Germany when they attempted to pass those laws in Germany.

Q. The Workmen's Compensation Law, the first one, in the United States, was adopted in Wisconsin, wasn't it? A. Wisconsin was one of the first.

Q. Dan Holmes drew it as attorney for the State Federation of Labor, didn't he? A. I wouldn't pretend to say.

Q. And he was elected Corporation Counsel and is now Mayor of Milwaukee and a Socialist? A. He is the Mayor of Milwaukee and a Socialist.

Q. Do you know who drew the last Compensation Act passed in Illinois? A. Do I know who drew the last Compensation Act passed in Illinois?

Q. Yes. Do you know who worked for that and put that through?

The Chairman.—I don't see how this is important. All parties unite.

The Witness.—Stand for it.

Mr. Stedman.—That happened to be drawn by a Socialist. (Discussion off the record.)

The Chairman.—Next question.

By Mr. Stedman:

Q. Do you believe in the following: (Reading) "The full possibilities of increased production will not be realized so long as the majority of the workers remain mere wage earners. The majority must somehow become owners, or at least in part the instruments of production." Do you endorse that? A. You are reading from the National Catholic War Council's Program? There are some declarations in there I hardly endorse. There are one or two that if you would like to get my opinion on them—

Q. You know what I've been reading from? A. I knew what you were reading, from the wording of it.

Q. Do you endorse that sentiment?

The Chairman.—What is that question?

(Question repeated by reporter.)

The Witness.—Yes, I would heartily endorse that.

Q. Do you believe that the workers should become the owners of industries? A. That is an entirely different question.

Q. I am asking you that, do you? A. No, I do not, unless they rightfully acquire them. I see no objection to them rightfully being participants in the tools of production, but I see no justification in denying others the right to a part in the ownership of the tools of production. I believe just as Dr. John A. Ryan when he wrote that and in his debate with Hillquit that the workers ought to have a larger share in the ownership of the tools of production, but not the exclusive ownership of the tools of production.

Q. You refer to John A. Ryan? A. Dr. John A. Ryan, yes.

Q. Who is he? A. Reverend Dr. John A. Ryan is one of the professors at the Catholic University of America in Washington, D. C.

Q. The same one that debated with Hillquit? A. The same one that expressed in the debate the complete antagonism of Socialism to God, to country and labor, and who proved it. And Hillquit did not deny his authority.

Q. Do you endorse the following sentence expressed by Father Ryan — A. I do not. I have already read it. You mean the letter Father Ryan wrote. I have read it in detail several times.

Mr. Block.—Do you endorse the statements contained in this letter sent by Dr. Ryan?

The Chairman.—I won't take any further on this subject.

Mr. Stedman.—We would like to have it marked as an exhibit.

(The paper was received and marked Exhibit A for identification.)

Q. You read the letter, I think you said? A. I read what purported to be a letter from Dr. John A. Ryan. I haven't seen

the letter except in the newspapers,— whose qualifications as an expert economist and teacher and theologian are the very highest. I know of no man in America that is of greater ability in the direction I have mentioned. This is entirely apart from that direction, but —

Q. You agreed with his letter? A. I agree with that part of his letter which says that he is opposed to Socialism very heartily. I do not approve with that part of his letter wherein he says that this is the greatest crime, or words to that effect, perpetrated since 1877.

Q. What crime? A. The crime of unseating these five members of the New York Legislature, of the Assembly of New York.

Q. Do you recall that you defined capital the other day? A. I didn't define capital. You asked me my opinion.

Q. Oh, you didn't? I misunderstood you. A. No; you asked me my opinion of capital as expressed by Marx, I believe, and in a very brief sentence I gave you what I believed was the definition of capital, that capital was that part —

Q. We misunderstand each other. I never intended to ask you; I wasn't asking you to state the theoretical processes of Karl Marx and for a definition but as I recall it I asked you to define capital. You made an answer but perhaps I didn't hear you. We will start in now. Will you please give me Marx's definition of capital? A. Marx's definition of capital as contained in "Wages and Labor" and as contained in his declaration with reference to surplus value and in his works scattered all the way through capital, his three volumes, that capital comes as that part of the earnings of labor that labor has been robbed of; that these earnings are called surplus value because surplus value is of course that portion, according to Marx, of the worker's wages of which he has been robbed, and he cites again instance upon instance, as the Socialists frequently cite, that instance that a table might be built by a workingman, that this table in its construction, the amount paid to the workingman would be one dollar; that the employer or capitalist employing the workingman would get five dollars for that table; that therefore the difference between the one dollar and the five dollars was that part of the earnings of labor that had been robbed from labor by the capitalist, and that was —

Q. And you say that is his definition of capital? A. Capital and surplus value.

Q. Please give a definition of surplus value.

The Chairman.— I fail to see how this is important.

(Discussion off the record.)

The Chairman.— Proceed.

By Mr. Stedman:

Q. Mr. Collins, you have made an effort or a definition, as you may call it, of capital and we can dispose of the other two terms in a very few minutes. If you are assuming that your definition which you have given is a definition of capital, please define surplus value, not its processes; give us the definition. A. Surplus value literally is that portion of the wages of labor, according to Socialism, that have been robbed from the worker in the process of production and necessarily in the use of the term "surplus value," surplus value must essentially come from the employment of capital and in the use of these terms of value and used value and social value, and capital, Marx all the way through the three volumes and in the Manifesto proclaimed here and there, and in his "Wages and Value" is constantly recurring to these terms, these definitions. The use, the production, the use of the tools of production by the workers producing wealth that this wealth belonging essentially to the workers is robbed from them by the employers; that this constitutes the capital for the production of other capital and other wealth and consequently these terms are being used continually through the authority of the Socialists.

The Chairman.— The Committee is adjourned until 2 o'clock.

(Whereupon the hearing recessed at 12:30 P. M. until 2 o'clock P. M.)

AFTER RECESS

(After recess, the Committee reconvened at 2:15 P. M.)

Mr. Stanchfield.— Mr. Chairman, before the cross-examination of Mr. Collins is resumed by Mr. Stedman, I desire to offer in evidence at this time the report of Robert Lansing as Secretary of State of the United States government, entitled "Memorandum on Certain Aspects of the Bolshevist Movement in Russia," and bearing date October 27, 1919, and addressed to the Hon. Henry Cabot Lodge, the Chairman on the Committee on Foreign Re-

lations of the United States Senate, in its entirety, this report being an official document printed in the government printing office at Washington. And I offer it, if the Committee please, upon the theory that has not yet been addressed to the attention of the Committee and that is this:

When we introduced before the Committee in evidence yesterday that section of the Federal Constitution in which the phraseology occurs, "That the United States Government guarantees to each state a Republican form of Government," we introduced it advisedly because that Constitution and that provision with corresponding sections of the Constitution of the State of New York constitutes a contract between the United States government and the State of New York and in the event at any time that the Legislature of the State of New York should be so numerically composed as that it should pass laws overturning a Republican form of government, the United States under that provision would be compelled to restore to the citizenry of the State of New York a Republican form of government and that is the reason why there is linked up in the oath that each member of the Assembly takes, "I solemnly swear to support the Constitution of the State of New York and the Constitution of the United States," and the whole theory of the formation of the Federal government is predicated upon that reciprocal relation between the state and the union of states.

Now this memorandum of Mr. Lansing has annexed to it a number of documents garnered through the channels of the Secretary of State's office and you will recall that there is very considerable amount of testimony in the case as to the Socialist Party being in accord with the Bolshevik principles of government. Nothing in the English language could be stronger than the phrase that was used in the manifesto of the Chicago Convention which was read in evidence and in which and by the terms of which the Socialist Party declares its solidarity with the Soviet government of Russia. Now the word solidarity is a peculiar word. It comes to us from the French and it is a synonym with the word "oneness." In other words, the Socialist Party by the use of that word solidarity, declared its oneness with the Soviet government of Russia. I am not overlooking in this statement, Mr. Chairman, the fact that there has been introduced in evidence here from the constitutions of the locals a change in that phraseology and that they have adopted in the literature that has been circulated in the Borough of Manhattan, the phrase, "We pledge ourselves to the

Soviet government," in lieu of the word solidarity, but the fact remains nevertheless that whichever way you look at it, whether you use the word solidarity or stand upon the expression "we pledge our support to the Soviet government." In other words, take either phrase, we are entitled to have this committee and beyond the committee, the Legislature as a whole, and beyond the Legislature as a whole, the people of the State of New York, apprised of what the Bolshevist government or the Soviet government of Russia is; what it does and what it stands for in order that the court of public opinion may intelligently vote and intelligently act upon the proceedings of this Assembly, because it is fair to assume that some day, some time, the action of this body will come into the political arena. Now the document I hold in my hand — I am not intending to consume the time of the Committee to read it in its entirety — contains various expressions, a great deal of evidence documentary in its character, speeches of Lenin and Trotzky and others who were prominent in the Socialist regime, declaring the purposes of the Bolshevist government and the principles upon which it proceeds. The basic principle is the control and the rule of the minority and not the majority, and I offer it in evidence at this time.

Assemblyman Cuvillier.— In that report, which I read very carefully, it says that the Soviet government of Russia, the Manifesto of Trotzky, speaks derogatorily of the United States of America, and I think it should go in.

Mr. Stanchfield.— Is there any objection to that Mr. Stedman?

The Chairman.— Proceed.

Mr. Stedman.— Yes.

Mr. Stanchfield.— I was about to state to the Committee — I assume some members of it may be desirous of returning to their homes, that with the conclusion of the cross-examination of Mr. Collins, the Committee have no further testimony to introduce until next Tuesday, by which time the Commission which has been sent to Milwaukee presumably will have returned. There are also certain resolutions and other evidence that we desire to introduce at that time, that will not take very long, when the opportunity will be afforded the five men under investigation to introduce such testimony as they see fit.

Mr. Roe.— Do we understand your case will close with the testimony from Milwaukee?

Mr. Stanchfield.— I am not disinclined to answer your inquiry. There will be some evidence, but it will be brief, Mr. Roe.

Mr. Roe.— You will probably finish on Tuesday?

Mr. Stanchfield.— Undeniably; unquestionably.

Mr. Stedman.— I would prefer to make my objections, perhaps, to this document on Tuesday.

Mr. Stanchfield.— There is no objection as far as we are concerned.

Mr. Stedman.— I suppose counsel would want to keep possession of it till then, would you not?

Mr. Stanchfield.— It is the only copy we have, Mr. Stedman. I do not know if we have another copy. I am not in any way disinclined — you can take that copy, if you like.

Mr. Stedman.— Very well.

Mr. Stanchfield.— I would like to have you reproduce it on Tuesday because it may be the only one we have.

Mr. Stedman.— It may be marked.

The Chairman.— What is that?

Mr. Stanchfield.— Mr. Stedman desires to borrow the pamphlet.

Mr. Stedman.— I would like to take it along to read it.

(Pamphlet referred to marked for identification, Exhibit No. 85.)

Mr. Stedman.— Then you have concluded?

Mr. Stanchfield.— Not entirely, but we will very readily finish Tuesday.

Mr. Stedman.— The reason I ask is because you have offered and printed the testimony of Mr. Martens.

Mr. Stanchfield.— That is one thing. There are certain excerpts that we may read, but it will be very brief. We have got the pages marked and it will not take ten minutes to read such portions of Mr. Martens' evidence as we regard material.

PETER W. COLLINS, recalled, testified as follows:

Cross-examination (continued) by Mr. Stedman:

Q. Mr. Collins, you have read, I assume, the Socialist Reconstruction Program, the General Review of the Problems and Surveys and Remedies issued by the Catholic War Council? A. The first number — No. 1, you mean?

Q. I mean the first number. Do you endorse the program outlined there, or the theory of it? A. Very generally, yes.

Q. You say very generally. A. Because much of it is general statements. I would say yes.

Q. You would accept the logic of it? A. Practically.

Mr. Stedman.—I think you have marked Assemblymen's Exhibit No. 1 for identification this morning, did you not?

Mr. Block.—“A.”

Mr. Stedman.—It should not be “A,” because you will run out of the alphabet. It should be 1, and this will be 2. If you have marked the first one “A,” let it stand and mark this Exhibit No. 1.

(Pamphlet referred to received and marked Assemblymen's Exhibit No. 1.)

Mr. Stedman.—I think that is all, Mr. Collins.

Redirect Examination by Mr. Conboy:

Q. I was inquiring this morning, Mr. Collins —

Mr. Stedman.—I want to offer that Reconstruction Program before the cross-examination.

I received in an envelope, post dated New York, February 4th, 7:30 p. m., 1920, Hudson Terminal Station 3, an envelope, the corner of which is marked “Anti-Socialist League, Inc., 361 11th Street, Brooklyn, N. Y.,” containing a letter which I would like to read and ask that it go into the record. I can read it and the stenographer can take it, and you can order it out or in, as you please.

Mr. Stanchfield.—There is not the slightest objection, Mr. Chairman, to Mr. Stedman's reading the letter. We know all about it.

Mr. Stedman (reading):

"FEBRUARY 4, 1920.

"HON. SEYMOUR STEDMAN, *Assembly Chambers, Albany, N. Y.*

"DEAR SIR.—There has come to our attention thru articles appearing in to-day's New York City papers, particularly the New York Morning World, that a Ellen B. Chivers appeared before the Assembly Committee yesterday and gave evidence against the ousted Socialist members of the Assembly.

"Ellen B. Chivers swears she was and is now a member of the American Anti-Socialist League, Inc., of Brooklyn, and is now paying twenty-five cents weekly dues in this organization. This is an absolute untruth. Ellen B. Chivers is not now and never was a member of this League. She never paid dues into its treasury, and her name never appeared on our books. She is absolutely unknown to us.

"Russell J. Dunn, to whom she made references in her testimony, likewise is not a member of this League. Mr. Dunn was expelled from this organization last June on very serious charges and since that time has had no connection with this League, whatsoever.

"Our League has been fighting Socialism and its kindred isms in this Borough for many years, but we must come forward and expose anyone using the name of the American Anti-Socialist League, Inc., to gain notoriety for themselves and give prestige to their remarks.

"We are writing you of this in order to protest against the evidence of this woman going down on the records of this trial as coming from a member and representative of this League.

"Respectfully yours,

"AMERICAN ANTI-SOCIALIST LEAGUE,
INC.,

"By (Signed) JOSEPH W. NOLAN,
"Secretary."

In the heading appears: "James L. McCarthy, President; Frederick J. Bruce, M. D., First Vice-President; Michael Dunne, Second Vice-President; David P. Burke, Third Vice-President; Joseph L. Nowlan, Secretary."

Mr. Stanchfield.— The Committee will notice that the letter to which Mr. Stedman has addressed your attention comes from the American Anti-Socialist League, Inc., and it has upon the right-hand side of it, "Headquarters, 361 — 11th Street, Brooklyn, N. Y." Now, it seems that anti-Socialist leagues — I emphasize the word "anti" — anti-Socialist leagues have become so popular that there is a great deal of rivalry over the right to the use of the name "Anti-Socialist League," and as a matter of fact, the witness, Miss Chivers, was quite correct in her testimony, and she is a member of the Anti-Socialist League which holds its meetings at Acme Hall, Seventh avenue and Ninth street, whereas the League of which Mr. Stedman spoke holds its headquarters at 361 Eleventh street; and it seems the rivalry has progressed so far that proceedings are pending between these various branches as to which one is entitled to use what I repeat has become a very popular name, and in order that the court of public opinion, as well as the Committee —

The Chairman.— I take it this whole matter is addressed to the whole public opinion.

Mr. Stanchfield.— I think it is, but Mr. Stedman, having started the thing, I want completely to answer him now.

The Chairman.— I should prefer to have it understood —

Mr. Stanchfield.— Quite right, Mr. Chairman —

The Chairman.— the letter is addressed to the court of public opinion, and not to the committee.

Mr. Stanchfield.— I had a perfect right —

The Chairman.— You have the right, sir —

Mr. Stanchfield.— Pardon me, I have a perfect right to have objected to Mr. Stedman's reading the letter that he did, but I knew perfectly well also that it would appear before the court of public opinion if I did. Therefore, anticipating that action, and knowing all about the letter which he received and having had a copy of it myself, I propose to answer it now.

The Chairman.— What I object to is having Mr. Stedman think that such a letter as that could be addressed to a lot of lawyers as impeaching the credibility of a witness. You know better than that.

Mr. Stedman.— I know better.

The Chairman.— Proceed.

Mr. Stanchfield.— This is the answer that the speaker has sent:

FEBRUARY 5, 1920.

"AMERICAN ANTI-SOCIALIST LEAGUE, INC., 361 11TH
STREET, Brooklyn, N. Y.:

"ATTENTION MR. NOWLAN.

"DEAR SIR.— I herewith acknowledge the receipt of your communication of the 4th instant.

"My information is that Ellen B. Chivers to whom you refer in your letter, is a member of the American Anti-Socialist League of Brooklyn; that the branch of the league of which she is a member holds its meetings at Acme Hall, the corner of Seventh Avenue and Ninth Street, Brooklyn; that she is a member in good standing and is regularly paying her dues in that organization.

"My information is to the further effect that there has been some sort of a split in the American Anti-Socialist League and that proceedings are pending to determine which branch has the right to the use of the name.

"It would seem to me that you would be much more interested, if it be the fact that you are engaged in an earnest and sincere effort to suppress the socialistic activities that we are attacking, to measure up the credibility and truthfulness of the evidence of Miss Chivers, rather than to try and minimize the influence of an association apparently endeavoring to honestly fight the battle of Americanism against those who are endeavoring to destroy our form of government.

"I am not at all interested in the controversy between the conflicting parties of this Association as to the right to the use of the name. My sole and only purpose in this entire proceeding has been to ascertain whether the Socialist members of the Assembly of 1920 have by their votes and speeches endeavored to hamper and impede the activities of the State of New York in participating with the other States of the American Union in an endeavor to bring the war to a successful conclusion. As a citizen and a man, I am also very

much interested in endeavoring to ascertain whether or not the five members belong to a party which is controlled by a subsidiary branch known as the 'Dues-Paying' branch of the Socialist party and have promised to hand their resignation to a committee of this 'dues-paying' branch if they failed to comply with its requirements. The 'dues-paying' branch, as the evidence of Mayor Lunn of Schenectady already demonstrates, has on its roster of membership both aliens and minors. This 'dues-paying' branch which controls the policy and the votes of the socialist members of the Assembly represents a very small percentage of the votes cast for the socialist party. The constitution of the Socialist party forbids on pain of expulsion, its members when elected to such office, to vote for any measure making provision for the support and maintenance of the army or navy. The constitution of the State of New York requires the maintenance and support of a standing army of not less than 10,000 men, and makes it mandatory upon the Legislature annually to make provision for the support of such force.

"It is difficult to see how any of these socialist members of the present Assembly can be loyal to their party, as they most solemnly declare they are, and at the same time can conscientiously take the oath as a member of the Assembly wherein they swear solemnly to support the constitution of the State and the constitution of the United States.

"Trusting that this makes my position clear, I am,

Very truly yours."

Mr. Stanchfield.— Now, Mr. Chairman, I ask that this incident be declared closed.

The Chairman.— What is that?

Mr. Stanchfield.— I ask that this incident be declared closed.

Mr. Stedman.— Isn't that very nice.

Mr. Stanchfield.— The initiative was taken by Mr. Stedman.

Mr. Stedman.— The affirmative has the opening and closing doesn't it? The Chair said that I knew that letter of course was incompetent. The suggestion was made that the letter which I offered in evidence was incompetent. I didn't offer it in evi-

dence. I asked that it be read into the record, although I would have been warranted in offering it in evidence in view of the fact that this Committee received a published statement from a paper five or six years before members of this House became members of the Socialist party.

Mr. Stanchfield.— Now, Mr. Chairman, I object to that line of argument. Is there any pertinency to the reflection of some former ruling of the Committee?

Mr. Stedman.— Simply I am being guided by precedent.

Mr. Stanchfield.— If the Chairman please, if Mr. Stedman is right in his position that he did not offer the letter in evidence, that he simply read it into the record, what right has he to the floor?

The Chairman.— By the sufferance of the Chair.

Mr. Stanchfield.— I object to that.

The Chairman.— I am inclined to believe that the objection should be sustained.

(Discussion off the record).

The Chairman.— Proceed.

Mr. Stedman.— Russell J. Dunn, the founder, appears on the letter also.

By Mr. Conboy:

Q. Mr. Collins, some reference was made to the organization you belonged to by Mr. Stedman in his cross-examination. What was the record of that organization during the war? A. The record of the Knights of Columbus during the war was one of unswerving loyalty to the United States and the allies. Over 33 per cent of the members of this organization, or approximately over one hundred thousand members having entered into the service of the United States in the armies and navies of our country, besides having thousands of welfare secretaries on the battlefields giving creature comforts and assistance to the soldiers of the United States and our allies and spending many millions of dollars for that purpose.

Q. I was directing your attention this morning to the cross-examination with respect to Charles H. Kerr & Co., that portion

of it which is to be found on page 655 of the printed record where you were asked by Mr. Stedman these questions. (Reading): "Q. I say, did you see any advertisement in the bulletin advertising Charles H. Kerr & Co., since 1912," followed by this question: "Have you seen any advertisement in the federal organ, the American Socialist, advertising Charles H. Kerr & Co." In that connection I show you the American Socialist for April 21, 1917, and ask you if on the bottom of the page that I show you there is not an advertisement by Charles H. Kerr & Co. (witness shown paper). A. Yes, sir, there is.

Mr. Stedman.— That is not cross-examination.

The Chairman.— It is redirect on something you have brought out.

Mr. Stedman.— It isn't redirect.

The Chairman.— I think it is.

Mr. Stedman.— The man says "Do you know where you were on a certain day?"

The Chairman.— Oh, well.

Mr. Stedman.— Let it go.

The Witness.— Yes, sir, the ad of Charles H. Kerr appears in the official organ of the Socialist party, the American Socialist.

By Mr. Conboy:

Q. I ask you if the same thing does not appear in what has been referred to here as the official organ, the American Socialist, under date of April 14, 1917 (witness shown paper) a similar advertisement by the same publishing house, Charles H. Kerr & Co.? A. Yes, sir, it does.

Q. Now some inquiry was put to you with respect to the ownership of the stock of Charles H. Kerr & Co. by Mr. Stedman. Have you found a copy of the review to which you referred in which there is reference to the stock ownership of that concern?

Mr. Stedman.— No, a list of them.

The Witness.— I have.

Mr. Conboy.— Will you produce it?

Mr. Stedman.— I asked him whether there was a list published of stockholders.

Mr. Conboy.— We will give you the best information we can get.

The Witness.— The International Socialist Review, February, 1911, Volume 11, No. 8, page 507.

Mr. Conboy.— Read from that.

The Witness.— From the publisher's statement.

Mr. Conboy.— Publisher's statement. What does it say with respect to the ownership of the stock of that concern?

The Witness.— The title is "Socialist Partners Wanted."

Mr. Conboy.— Socialist partners wanted.

The Witness.— Socialist partners wanted. The publishing house of Charles H. Kerr & Co., is now owned by 2,200 Socialist party locals and party members most of whom own just one share of stock. About 1,400 shares of ten dollars each are still unsold. The sale of these would clear off every dollar of debt and would give us enough working capital to double our output of literature begun during 1911.

Q. Yes. Now, will you tell me, if you please— Oh, have you looked through the printed copy of your testimony and are there any corrections that you desire to make? A. There are some typographical errors in spelling of words.

Q. Never mind the typographical errors and spelling of words. A. They are very essential.

Q. If they are essential we ought to have them corrected. A. On page 662 in quoting from Mr. Debs' article in the review mentioned it is copied here, the word "Slaving of Workingmen" instead of slaying, the killing. That is simply a natural typographical error of course not intentional. The word "slaving" is used on the part of the copyist.

On page 666 on the top paragraph where I give testimony stating that the articles in the Chicago Daily Socialist and the editorials in the International Socialist Review show that the McNamara brothers were Socialists and that this was the result of Socialist teachings. On the repetition of that it has made me saying, "They didn't admit that this was the result of Socialist teachings; they admitted that the McNamara brothers were Socialists." My testimony was that they did admit. The word

"didn't" just the letters "nt" being added to the word "did". That ought to read "They did admit that this was the result of Socialist teaching.

Page 677, in answer to the question of counsel, Mr. Stedman, I answered: "In connection, for instance, to perpetuate the first Socialist Republic of the world, the Russian Soviet Socialist Republic," it has, instead of "The first Socialist Republic," "the first Social Republic." That word should be "Socialist" Republic, as I used it.

On page 678, in answer to Mr. Stedman's question: "What is the significance or meaning of the term 'class struggle,'" I answered, "The meaning of the term from the point of view of Socialism is that there is an inevitable conflict on the one hand by what I call the proletarians, or the working people." That word "I" should be eliminated, as my testimony was "They,"—"they called them proletarians," the word being "they" instead of "I."

I note in reading a part of the testimony this morning—I happened to see it out on the telegraph desk—that in reference to the question asked me about the Knights of Columbus, and saying that it was not a secret organization, I noticed that I was reported as saying that it was not an "iron-bound organization." The record shows that I said "iron-bound organization." It should be "oath bound organization." That should be "not an oath bound organization," instead of "not an iron bound organization."

Those are purely natural errors that are liable to creep in, but it is absolutely essential, to give the true intent, that they should be mentioned.

Again, I notice that in the names given, frequently there is a misspelling of a name, such as in giving the word the "Colgan" mine. It is given as the "Colvin," and other errors in names; and I hope if the question is raised later, when I am not here and will not have an opportunity to answer, and somebody says there is no such name, you will understand I gave the correct names.

By Mr. Stedman:

Q. You might spell it, to avoid confusion. A. Colgan, C-o-l-g-a-n.

By Mr. Conboy:

Q. Now, with respect to this Chicago newspaper to which you referred, what is your information with regard to that publication? A. The American Socialist? .

Q. No, not the American Socialist, the Chicago Daily Socialist. A. The Chicago Daily Socialist was the official organ of the Socialist party of Chicago and printed for a number of years and suspended, and now carried on as a weekly. In my testimony today I was under the impression, because of the thousands of publications that I have mentioned and the names of thousands of authorities that have come up during our direct and cross-examination, I hastily made the statement it was the Chicago Daily Socialist.

Q. What was it originally known as? A. As the Chicago Daily Socialist.

Q. Was its name afterwards changed? A. The Chicago Socialist. It is a weekly instead of a daily publication. I gave that information this morning.

Q. What, Mr. Collins, is the difference between the program of the Socialists and social reconstruction as referred to in this pamphlet which has been put in en masse as cross-examination of you? What do you understand to be the essential difference between it and the program of the Socialist party? A. The program of the Socialist party and the program of the National Catholic War Council are substantially in positive conflict and variance. For instance, in setting forth the doctrine of wealth and capital and values and the class struggle, Socialism declares that in every historical epoch the prevailing mode of production and distribution, and the social organization necessarily following from it, alone determine the social, moral, religious and educational institutions of that epoch. Socialism declares that the workingman under Socialism, of course, would have no ownership whatever of the tools of production. On the other hand, the National Catholic War Council denies the statement and premises set forth by Socialism and declares that the workers should own a larger share of the tools of production and not be denied them, as Socialism would positively deny them any ownership whatever in the tools of production, the tools by which they earn their livelihood.

Q. And the difference is fundamental? A. Absolutely and positively, and the man who wrote it — Dr. John A. Ryan — was

in absolute agreement with what I have just stated, and his Hillquit-Ryan debate will show that conclusively, making the very statement I have quoted, that the workers should have a larger ownership in the tools of production and share in the larger ownership.

Q. The philosophy and teachings of Socialism are opposed to that? A. Absolutely and positively.

Mr. Conboy.— That is all, Mr. Collins.

By the Chairman:

Q. Have you made any investigation, either lately or within several years, as to the percentage of aliens in the dues-paying membership of the Socialist Party? A. Without having access to the files of the party, and basing my knowledge on the most exhaustive contact and experience among the Socialists in recent years as well as past years — and the Socialist Party membership — my conclusions are, and I believe I could back them up with the records of the Socialist Party if they were produced before the executive committee — as a matter of expediency they started expelling Socialist locals; but at least 70 per cent. of the Socialist Party dues-paying members in America are aliens. That is a condition that came about in recent years, because I recall distinctly a statement having been made at one time — perhaps ten years ago — by Morris Hillquit, that at that time 70 per cent. of the Socialist Party members were native Americans. That was ten years ago. Since that period the complexion of the dues-paying members of the party has changed to — it is a very conservative statement, and I make it as a conservative statement — 70 per cent. the other way; and if these Socialist locals had not been expelled purely as a matter of political expediency, so that the control of the party might be kept within a certain group, then the party would be perhaps 80 per cent. and more aliens.

By the Chairman:

Q. So, if your contention or proposition is true, then the public official who signs a paper to obey the orders of the dues-paying members through its committee, necessarily is governed by a body of men of which 70 per cent. are aliens and non-citizens of the United States, is that it? A. That is not only true, but we have that government existing today with the methods used in

the resignation. The Socialist Party is actually a government within a government determining how their membership shall act in public places.

By Assemblyman Cuvillier:

Q. As an expert on the question of Socialism, did you observe since the fall of the Hohenzollern dynasty in Germany, and the public have assumed the government of Germany, that the Communist Soviet Russian form of government was tried to be introduced by Karl Liebknecht and Rosa Luxemburg, and they were unfortunately assassinated in Germany, and formed a revolution there on the same proposition that the Socialists of America advocate here in this country? A. You are asking for my opinion, and I would say that the Socialist form of government at the present in Germany is a form of government instituted by and for the German people as a part of the expediency of the past rulers of Germany to fool the people of the world. I do not believe for one instant that Socialism, as a purely Socialist government, is in force in Germany. That is, it is purely a part —

Q. But you don't get my point, that the present existing form of government in Germany — A. That is a socialist republic.

Q. I appreciate that. That the Communist Soviet Russian International, which was represented by Karl Liebknecht and Rosa Luxemburg, tried to overthrow the present government of Germany, is that correct? A. That is true, but in doing that I believe it is only fair to say that Carl Liebknecht and Rosa Luxemburg were consistently socialistic; but the present rulers of Germany are not.

Q. I appreciate that; they were a part of the Soviet Communist Government of Russia, who advocated the same socialism the party advocates in this country? A. That is very true. They all belong to International Socialism.

Q. And the Germans would not tolerate them? A. I do not believe the German people will ever tolerate socialism as a republic. It is going back to German imperialism as it was before the war, unquestionably.

Q. The point I am getting at is this: that Rosa Luxemburg and Karl Liebknecht represented in Germany what the socialist party represented in America, is that correct? A. I would not want, Mr. Representative, and you will pardon me —

Q. Did they represent the Soviet Government of Russia? A. They represented the International Socialism, but I would not

pretend to say that Karl Liebknecht and Rosa Luxemburg held credentials to represent the Soviet Government of Russia. They were in full accord and sympathy and in contact with it at all times, but in that way they were consistent revolutionary socialists.

Q. Now, coming back to that point, to corroborate what I say is true, that they were the accredited representatives of the socialist party at the convention which Mr. Hillquit and the American delegation was there, do you know that? A. I did not know that they were the only representatives of the socialist party. I knew they were two of the representatives, but there was a great group, perhaps 36, I believe, representing the German Socialist Democratic party. I would not want to attempt to pin my knowledge of socialism, or of its history, or its authority, on the act or the opinion of any one or two individuals, whether or not they were consistent or inconsistent socialists. I would rather get the exact situation as it is, rather than the act or opinion of one or two. That is why I am giving this expression of opinion in answer to your question.

By Mr. Conboy:

Q. In other words, socialism is as they express it, a philosophy? A. Exactly.

Q. And that philosophy, in their judgment, is to be made effective internationally? A. Internationally, the world over.

Q. And when it is made effective internationally, all boundary lines are wiped out? A. All boundary lines are wiped out.

Q. And there will be no countries or patriotism because nations and countries will be obliterated, and there will be nothing except this vast universal socialist cooperative conference? A. That is very true. That is the point I wanted to develop.

By Assemblyman Blodgett:

Q. In referring to a statement of Mr. Hillquit, you said that he said the membership of the socialist party was made up of seventy per cent. native Americans; is that a misstatement?

A. No. Commenting on the address of Mr. Lewis, either in 1908 Congress or the 1910 Congress,—in the course of Mr. Arthur Morrow Lewis' address, he stated, in a part of that address to the convention, that 99 per cent. of those who knew what socialism was and accepted it, were atheists and agnostics. And then in commenting on that, and in summing up the position before the

committee, a resolution which Mr. Hillquit reported and drew up, he said: "While it is true that as Comrade Lewis says, 99 per cent. of all socialists who know what socialism is, are atheists and agnostics"—"well, we cannot go out before the public with that declaration. We must get members first. The materialistic philosophy of socialism can gradually follow afterwards, after we get them in as followers."

Q. The reason I ask the question is this: The chairman asked you, I believe, what percentage of the socialist party, in your opinion, was made up of alien enemies or aliens? A. I said seventy per cent. aliens at the present. You mean, now, the other statement I made about Hillquit?

Q. My point was this: You meant to have said that the socialist party was seventy per cent. aliens, and you did say seventy per cent. native Americans. I wanted to know whether that is correct?

The Chairman.—You said ten years ago it was seventy per cent. Americans, but gradually changed until now seventy per cent. the other way, is that your idea?

The Witness.—Yes, but you are getting another statement by Hillquit in the congress regarding atheists that ninety-nine per cent. of the socialists are atheists and agnostics.

By Assemblyman Pellet:

Q. You said Hillquit said 70 per cent were native Americans? A. Yes, that is what he said ten years ago.

Q. Did he say native Americans, or naturalized citizens? A. Native Americans.

Mr. Berger.—In order that this question —

The Chairman.—I suggest that the Committee finish now.

By Mr. Blodgett:

Q. The information I want is, if Mr. Collins knows, what is the average percentage to-day? A. At least 70 per cent. I say that advisedly of the Socialist Party. Its dues paying members are alien even with the Socialist locals that have been cut off of its membership on account of the arbitrary action of the National Secretary.

By the Chairman:

Q. Now, there has cropped up here, possibly it is already in evidence, but I would like to have you give me your idea — there appears to be here prominently mentioned Communists? A. Communists.

Q. Communist, I. W. W. group, Left Wing Socialists, Radical Socialists, and I guess Socialists. Now, could you explain to me exactly how they differ? A. Yes, I think I could best explain that, if you allow, by a very prominent American Socialist, and I quote from —

The Chairman.— This is so confused.

The Witness.— No, this will cite it very easily. It is official. It is written by Victor Berger, as an editorial in the Milwaukee Leader of Saturday, November 1, 1919, so it is right down to date. He said, referring to the discussion in the Senate, where he fully advises the Senators, referring to Senator Watson — he explained — he, Senator Watson, explained there are 49 varieties of Socialism. Then, at the suggestion of Senator Thomas of Colorado, “the guy who is so anxious to have troops used for the purpose of protecting strikes, as if they were not being used for that purpose already, he increased the number of varieties to 57.” “This was done in order to make it harmonious with the 57 varieties of pickles produced by the late Mr. Heinz, as well as the logical quality of the Senatorial mind, but the Senator is in error; there are not 57 varieties of Socialism, neither are there 49 varieties. There are 57 more or less varieties of ways to reach Socialism, but there is only one variety of Socialism. When you get there you are there, and it is Socialism, even if you do disagree with your next door neighbor about the road to take in order to arrive.” In other words as Berger states, there is only one kind of Socialism — international Socialism, upon which every Communist, so-called, every Syndicalist, so-called, every I. W. W., so-called, every Socialist party member, so-called, every Socialist of any type, stands upon the foundation of international Socialism, but the tactics of these groups are part of work of Socialism. One group, the Inter-Collegiate Society of Socialism, can go into colleges under the guise of professors of biology and sociology, like Nearing in Pennsylvania, afterward expelled, and preach Socialism to the students under that guise. The I. W. W. speaker could never get into that group. Therefore they have these different

varieties of Socialists for the purpose of getting where they can drive home Socialism and make Socialists.

Mr. Conboy.— That is, they utilize the opportunities as opportunists.

The Witness.— Absolutely, it is the most scientific system of deception in the world, because it wants to make a thousand different people believe that it stands for a thousand different things.

The Chairman.— Then if it is true that the Socialist Party of America has adopted by a referendum after the minority report at the Chicago Convention, as is stated in some periodicals to-day, the adoption of that in your judgment would govern all Socialists by whatever name they may be designated, is that so? A. I would say without developing the answer, yes. It is the referendum expression of the party officially adopted. It becomes binding upon the party as a matter of law and the expulsion of parties who do not observe the law must result.

The Chairman.— And the mere splitting up into various names is a matter of convenience?

The Witness.— It is a help to Socialism. It simply gives a renewed enthusiasm to the activities of the groups and consequently makes more Socialists.

The Chairman.— And these groups in your judgment are all operating towards a common center?

The Witness.— Not only in my judgment but in the judgment of the authorities of Socialism.

Assemblyman Cuvillier.— Mr. Collins, I have received this in my office at 42 Cedar street, "The I. W. W." Have you ever seen that before? (Witness shown paper.)

The Witness.— Yes, this is an appeal for funds signed by W. D. Haywood, an expelled member of the Socialist party, but a former member of its National Executive Committee, and still a Socialist though not a party member. Of course, we know that the Socialist following in the United States has approximately, well, a million and a half voters, including the Congressional and Presidential election, while the party memberships have never exceeded about 137,500 members, dues-paying, at the most; and we know that the circulation of literature on Socialism with its 240

English language publications, and the others, have a circulation of approximately ten million.

Assemblyman Cuvillier.—What does it say there on the pamphlet?

The Chairman.—That is in evidence.

The Witness.—It is an appeal for funds of the Socialists.

Mr. Stedman.—I object to his constantly calling it Socialists.

Assemblyman Cuvillier.—I want to know if the I. W. W. is a part of the Socialist party.

The Witness.—Absolutely.

Assemblyman Cuvillier.—That's it. I offer that in evidence.

Mr. Block.—I would like to have the question and the answer read. In the confusion I didn't get it.

The Chairman.—I want to say for the benefit of the gentlemen that possibly the Chairman overstepped his rights, if this was a strict lawsuit, in asking so many questions; but you must always bear in mind, gentlemen, in the further proceeding of this case, that we are authorized to investigate and report. We may take it into our heads to go outside of all of that and look up some records. We have got a right to, so don't for a moment think that the case is closed or that your motions are the ironclad motions of the Supreme Court.

Mr. Karlin.—In line with the suggestions, I want to ask one or two questions.

The Witness.—Just a moment.

The Chairman.—The paper offered in evidence by Mr. Cuvillier is excluded.

Mr. Stedman.—Will you please read the last question and answer for Mr. Block?

Assemblyman Cuvillier.—You do say and reiterate that the I. W. W. is a part of the Socialist party in America?

The Witness.—Now, just a moment so there won't be any confusion in the minds of the Committee. I say this: that the majority of the membership of the I. W. W. are dues-paying mem-

bers of the Socialist party. I would not positively make the assertion that the I. W. W. as an entity, that is, as a recognized organization, the I. W. W., other than in the majority of its membership, is a constituent part of the Socialist party. It is in actuality by the majority of its membership.

The Chairman.—Like we have lodges in this country with various adjuncts and names and still they are all a common lodge.

The Witness.—Exactly.

By Mr. Stedman:

Q. Mr. Collins, you stated that the difference between the Program of Reconstruction shown you by counsel and the Socialists was mainly in this, that the — A. Not mainly; as a part of.

Q. That the difference in part was this, that the Socialists claimed or insisted that the mode of producing the material necessities of life alone determine the character and form of society. Is that correct? A. That is correct.

Q. Are you not mistaken and is it not as follows: That the mode of production and producing the necessities of life alone explains — what is your answer? A. No.

Q. Find it. It is in the Manifesto. See if it isn't "explain." A. I would rather have you read the Manifesto. I stand by my definition as given by Marx and Engels.

Q. Will you find it? A. Let me have Engels' "Utopia." I was referring to Engels' setting forth of the Marxian theory and there is no greater scholar than Engels.

Q. I will look and see if we have that. A. No Socialist denies that because it would be a denial of Socialism.

Q. Here it is. Find it (witness shown book). A. Show me the clause you want.

Q. I want you to find it. It was in Marx; now it is not. If you ask me to find the word "explain" I might be able to do it for you.

The Witness.—This has a number of pastings in it.

By Mr. Stedman:

Q. Never mind the pastings. Just read the print. A. They are clippings.

Q. You need not read the clippings. Just take the book. A. Charles H. Kerr & Co., American publishers, 1900 — this is not

the same copy of "Socialism Utopian and Scientific" as published by the Rand School. You remember the other day that you were looking for a passage and it was different.

Q. It was different in page, but not in content. A. That is what I am looking for, the difference in page. (Witness continues to look for passage desired.) Mr. Chairman, to save time, I will stand upon that as coming from Marx and Engels and shall guarantee to produce the quotation exactly as I gave it at a later time, or when I have time to look it up; or else to have that definition, so far as I am concerned, excluded. I stand upon it and will guarantee that if the matter is looked up at leisure it will be found correct. I am using the term "alone determine" and he is using the term "explain."

Q. If you take my book — this is on another subject now; I am passing yours; you can find it later — will you turn to yours, if you are not satisfied with mine, and read a paragraph from that, the paragraph I have put in brackets. A. Of course, there is a context —

Q. You read the context the other day. A. Then I will start —

Q. You will start from where I ask you to read. A. I will either read from the next page to give the context, as well as the quotation itself, or not at all

Q. I have no objection to your reading the entire instrument, but as you took a paragraph, I will take one: "The workingmen have no country. We cannot take from them what they haven't got. Since the proletariat must first of all acquire political supremacy; must rise to be the leading class of the nation; must constitute itself the nation; it is so far itself national though not in the bourgeois sense of the word." Do you think a person is less patriotic because he has civic pride or State pride? A. No, I think they are patriotic when they have both civic and State pride.

Q. Do you not think a person can be nationally patriotic and still believe in a fraternal relationship between different countries? A. I consider that a man who loves his own neighbor best, his own fellow-American best, must necessarily love every man well. I consider that the man who declares that he must love a citizen of a foreign nation before he loves his American neighbor cannot build his love of his own country upon that doctrine of internationalism.

Q. You are a Christian, I assume? A. I am.

Q. Do you find anything to warrant the belief that Jesus loved a Jew better than a Gentile?

Assemblyman Cuvillier.— I object to that.

Mr. Stedman.— I wanted to show the realism of the witness's creed.

The Chairman.— No. That religious discussion I will not admit.

Mr. Stedman.— Very well.

By Mr. Stedman:

Q. You do not believe that a person can admire the achievements and glory of his own country and at the same time recognize and believe in that of others? A. The man who fails to admire the glory and achievements of the men of any nation is a narrow-minded man, no matter whom he may be.

Q. Whether that is political, in art, music or literature? A. Absolutely.

Q. Material achievement as well? A. Any achievement for the greater glory of civilization and its progress.

Q. Now, you have mentioned the membership of the Socialist Party. Do you know the membership of any single branch? A. Oh, yes.

Q. Do you? A. Yes.

Q. Name one? A. Well, when I was in Washington —

Q. When was this? A. About three years ago.

Q. Oh, let us get down to the last year or two if we can. A. When I was in Yonkers, New York, in my joint debate, about two weeks ago, or a little over, with Mr. Jeager, the representative of the Rand School —

Q. Leave him out. How many members did they have?

Mr. Stanchfield.— He will get along a great deal more quickly if he is not interrupted.

The Witness.— Let him interrupt. I understand the line he is working on.

By Mr. Stedman:

Q. What was the membership? A. I understood that the membership of the Socialist local there was close to three hundred.

Q. Who told you that? A. Well, there were some Socialists that I met there and had a conversation with them after the debate.

Q. Did you ask them how many members they had? A. The question came up whether or not Mr. Jaeger, when he came on the platform to debate — I asked him if he officially represented the Socialist Party and he said he did, and he handed me his credentials, with the seal of the Socialist local of Yonkers; and the debate went on, and after it went on there was considerable discussion as the people were going out, and I met a number of Socialists.

Q. And you asked them how many members there were in their branch? A. It came up incidentally. I was there until 3 o'clock the next morning, in Yonkers, and that question, among others, came up.

Q. Did you ask them how many members they had? A. I do not recall my asking them. I think it came out in our discussion.

Q. Did you ask them how many were aliens? A. I did not.

Q. Did you ever ask the members of any branch how many were aliens? A. Oh, I did, yes, frequently, and found that out by the evidences of my questionnaires and the discussions afterwards, and the meetings of the Socialists afterwards, in my talks with them after the lectures and debates.

Q. Oklahoma was a state where the Socialists had the largest vote among the farmers, was it not? A. I wouldn't put it that way.

Q. Is there any state where they received more votes among the farmers? A. I covered Oklahoma. I had two series of lectures there from Enid, Oklahoma, to Oklahoma City.

Q. I did not ask you that. A. You asked me a question about Oklahoma, my familiarity with the situation there.

Q. I am not asking your familiarity. I am asking whether that state did not record the largest farmer vote? A. Up to a certain period it had a large farmer vote. Since then it has gone down. Since a campaign was made among the farmers to show the menace of Socialism, they have dropped socialism like a hot cake.

Q. What is the answer, yes, no, or you do not know?

Mr. Conboy.— The answer is this, if the Chairman will permit me to restate it: The answer is that there was a large vote among the farmers up to a certain time; that then the farmers understood what socialism is, and since that time it has been dropped.

Q. I will make it the last general election in the Fall of 1918. Mr. Witness, will you answer it now? A. If the Chairman will permit, I will be glad to say what the farmers told me about what they thought of the Socialist ticket.

By Mr. Stedman:

Q. You say that is an answer. Well, I won't ask you any more questions. I will move, now, from the farmers. You noticed that the price of cotton went up in Oklahoma, did you not, and when the price of cotton went up, the Socialist vote went down? A. I think that is worthy of an answer.

Q. Does it prove the economic basis? A. It is one of the few questions worth answering, if the Chairman will allow me.

The Chairman.— You may answer it.

The Witness.— To understand the cotton situation in Oklahoma, one has to know it. For instance, the greater majority of the farms in Oklahoma have tremendous mortgages on them. The rate of interest is an outrage, the rate of interest paid on the mortgages, because they run from 26 to 50 per cent on the mortgages, besides a bonus being paid for loans. Consequently, when these tenant farmers — they were tenant farmers in actuality — on the cotton plantations were producing their cotton, they were getting nothing for it; the interest ate up what they got. They were tied up with many of the banks there with the loans, and as an expression of their discontent they voted for the Socialist ticket.

Now, the crop of cotton, of course, was abundant and the price of cotton did go up. The farmers, however, did not get the benefit of that — the farmers of Oklahoma — to any material extent, in getting out of the tremendous debt that practically all of them were in, although they got a far better opportunity than they did before; but the loans to them are still existing; but cotton has been high since 1915, not alone since 1918.

By the Chairman:

Q. What you mean by that is that after a man gets a little money ahead and gets to be fairly prosperous he ceases to be a Socialist? A. No, what I meant was this, that these men who voted the Socialist ticket were not Socialists; that they voted the Socialist ticket as a protest against conditions they were laboring under, and therefore the Socialists called them Socialists.

By Mr. Stedman:

Q. And when that condition no longer exists you don't protest any more? A. No.

Q. Mr. Collins, do you know how many members were in the Socialist party at any given period during the last two years?

A. On account of the action of the National Executive Committee in expelling locals and expelling state parties I would not pretend to be a competent expert on that, although I would say that it varied perhaps between 40,000 to 100,000.

Q. Do you know whether they had affiliated with the general organization, what was known as foreign federations? A. Foreign speaking federations?

Q. Yes. A. Yes, Lithuanian branches, and so forth.

Q. Now, will you please tell me some local where they voted for the Executive Committee where there were any candidates? A. I don't quite get you.

Q. They didn't control, for instance, the county committee in Cook County or Kings County, did they? A. I wouldn't pretend to say definitely in that respect.

Q. Do you know that there are seven states where aliens vote, unnaturalized aliens? A. Do I?

Q. Yes. A. No, I do not.

Q. Are you familiar with the fact that unnaturalized aliens who declare their intention vote in the states of Maine, New Hampshire, Connecticut, California, Washington, Wyoming, and Arizona? A. When you said aliens I didn't know you meant those who had already declared their intention.

Q. I meant those who had declared their intention of becoming citizens. A. You didn't say that.

Q. I am speaking of those who were not citizens. A. I have understood there were some states who did on the declaration of intention to become citizens.

Assemblyman Cuvillier.—Those are not aliens, they are denizens.

Mr. Stedman.—They are alien denizens.

Assemblyman Cuvillier.—No, they are not. An alien is a man who is not a citizen. He takes out his first papers and then becomes a denizen.

Q. All right, did you know they could vote denizens in seven states? A. I would have to allow that question to be answered by somebody else.

Q. You spoke about the Socialists permitting aliens and children and women to vote? A. No, I did not.

Q. They vote in some places now, don't they? A. They vote very generally in places.

Q. By the way, they practiced a little mass action, didn't they, and a little sabotage down in Washington? A. What part of Washington?

Q. Washington, D. C., in front of the Capitol. You remember the hunger strike and the little bonfires? A. That was not mass action. I thought you were talking about Washington state where the Socialists practiced mass action.

Q. No, I am speaking about down here where they went on a hunger strike. A. I thought you meant Centralia, Washington.

Q. Where a high toned mob went out and shot some unfortunates? A. I have been in Centralia —

Q.— I think that you had better keep away from there. You don't know how many Socialists there were a year ago or how many persons there were naturalized or unnaturalized? A. I know from my general contact with Socialist leaders, and by debates, and my experience traveling hundreds of thousands of miles and meeting them everywhere. I wouldn't definitely state the number.

By Mr. Stedman:

Q. We would like to read from page 7 of the Manifesto: (Reading): "That in every historic epoch the prevailing mode of economic production and exchange and the social organization necessarily following from it form the basis upon which it is built up and from which alone can be explained the political and intellectual history of that epoch." A. If you wish me to make a statement on that I will still say and guarantee to produce the evidence of its pertinence, whether or not that Manifesto has been changed in recent years I don't know; but as I have stated I will stand by the interpretation as I gave it. "Alone" determines and not alone explains because the doctrine of Socialism would absolutely fail of existence because the doctrine means economic conditions determined, not explained determinism.

Q. You have read from The American Socialist of April 21st, 1917. There are one, two, three, four ads, are there not, and the lower ad reads as follows: "News from Nowhere or an epoch of rest by William Morris. Is a romance of the successful Socialist cooperative commonwealth. What becomes of the states, jails,

poverty and millionaires? Read the story of Socialist Dreams Come True. Price One Dollar. Published by Charles H. Kerr & Company, 347 East Ohio Street, Chicago." That is the ad which you refer to, is it? A. That is the ad at the bottom of this page.

Q. And there are four ads above it? A. No, you are wrong.

Q. Three or four? A. One, two, three, four, five, six, seven ads before.

Q. All right, seven ads before it. Did you ever read the works by William Morris, the Socialist author?

Mr. Conboy.—I object to that. This inquiry was merely for the purpose of meeting cross-examination and as to whether this concern did advertise.

Mr. Stedman.—I am not going to struggle with you over it.

The Chairman.—Anything further?

By Mr. Karlin:

Q. Now, Mr. Collins, in answer to the Chairman's question as to whether as a result of the referendum announced in the current issue of the newspaper was binding and all the various organizations enumerated by the Chairman such as I. W. W.'s, Syndicalists, Communists, all those organizations would be bound by this referendum vote; is that right? A. In spirit if they were not party members it may be considered, yes.

Q. Just a minute. A. I haven't finished my answer.

Q. The only way to do the best I can, Mr. Chairman, is to have an answer. The Chairman asked you if you couldn't compare it to a lodge in which various lodges and fraternal organizations connected in the home office are bound in the same way and you said yes. A. That is true.

Q. What you mean to tell the Chairman is that the Socialist Party Headquarters in Chicago has lists of members of the Communist party bound by the action of that executive committee of that party? A. That is a fair inference.

Q. And that the I. W. W.'s of which Mr. Hayward is head, also has its allegiance and is bound by the same executive committee? A. I made no such statement.

Q. You didn't make any such statement then? You withdraw as to Hayward? A. No, I withdraw nothing absolutely, not even a comma.

Q. But you will tell the Chairman and Committee that the I. W. W. members are bound by this referendum vote referred to?

A. If he asks again I would be glad to.

Q. What do you say? A. Are you asking me?

Q. Yes. A. Yes. (Applause.)

Mr. Berger.— May I make an application? We have examined certain of the membership cards in the various locals in Manhattan, Bronx and Kings, but there is certain information we haven't as yet secured and we ask that you direct Mr. Gerber, secretary of the New York local, Mr. Chateauf, secretary of the Kings county local, and Miss Stern, secretary of the Bronx local, to place at our disposal tomorrow morning in New York City all the membership cards, not merely the current cards, but all the cards that they have, and we will put some men to them so we can present to this Committee on Tuesday an accurate and comprehensive report of just what those cards show.

Mr. Stedman. You mean from the last twenty years?

Mr. Berger.— I mean all the cards they have.

The Chairman.— The object is, I suppose, to bear out my question as to how many were aliens and citizens.

Mr. Berger.— Exactly. It isn't as Herculean a task as it appears.

The Chairman.— Are those people you mention subject to our subpoena?

Mr. Berger.— They are under subpoena now.

The Chairman.— They are so directed.

Miss Stern.— I have not been subpoenaed to furnish any cards.

The Chairman.— What you have you may furnish.

Mr. Berger.— Where are the cards?

Miss Stern.— When we check off our membership cards at the end of every half year those that are suspended are destroyed. We don't carry dead matter in our office.

Mr. Berger.— We can simply get what exists.

Mr. Stedman.— I cannot see any reason why we should spend a week's time going over 100,000 cards in those offices.

The Chairman.— I only have this to say, Mr. Stedman, that the Chair is inclined to think that it is important.

Mr. Stedman.— They have had access now for two or three weeks.

Mr. Conboy.— I am just on the point of letting Mr. Collins go, if there are no further questions.

Mr. Berger.— Mr. Chairman, we will withdraw that application. We won't take up the time or the effort of the gentlemen on the other side with regard to those cards.

The Chairman.— What did you say?

Mr. Berger.— We will withdraw the application.

The Chairman.— Why?

Mr. Berger.— And will try to get along without the information.

The Chairman.— All right.

Mr. Berger.— We will get along without it.

By Mr. Block:

Q. Mr. Collins, you said that you asserted as a fact that the present membership of the Socialist party in this country consists, 70 per cent of aliens. A. To the best of my knowledge and experience and belief.

Q. Will you state whether or not at any time within the past four years you have examined the membership list, the official membership list of any social organization of the Socialist party in this country? A. I have not, sir.

Q. Have you at any time examined the official membership list of any local of the Socialist party? A. I have never been allowed that privilege.

Q. Then you have never done so? A. No, sir.

Q. And when you say 70 per cent of the members of the party are aliens, you say that upon vague, indefinite, hearsay knowledge and not upon any official statistics whatsoever? A. I say it upon a careful analysis of an experience extending fifteen years covering every state in the United States and every city of any consequence, large and small cities, in contact with hundreds of thousands of Socialist party members during that period, and through my contact with the leaders.

Q. What have you analyzed during that contact? A. What I have testified to before this committee.

Q. Do you mind repeating it again briefly? A. It has taken three days now to get it.

Q. In what way have you been furnished with any information that you have analyzed to make you competent to state to this committee as a matter of fact what the percentage of the membership of the party is that is alien? A. By first reading the official literature of the Socialist Party and its publications, its bulletins.

Q. That is one thing, reading the official literature and bulletins of the party. Does that give you a statement of the membership of the party and whether or not it is divided into aliens or citizens? A. Very frequently it shows lists of the locals and a part of the membership, the dues-paying, and so forth.

Q. Does it in any way show how many are citizens and how many are not citizens? A. I wouldn't say positively that the bulletin says that.

Q. Have you any paper or document of the Socialist Party or sanctioned or indorsed by the Socialist Party which you have collected during your 15 years of experience as an anti-Socialist which shows the membership alien or citizen of the Socialist Party? A. I have.

Q. Will you let me see it? A. I haven't it with me. I was called on subpoena not knowing absolutely what would be necessary to bring.

Q. Will you say that you have not discussed at all until entry in this chamber and taking the witness chair what your testimony would be in this proceeding? A. I mean to say that I did discuss with the members of the Attorney-General's office when they served the subpoena on me to try to suit my convenience, so I might get back in time to keep my lecture engagements. I was served with the subpoena on Sunday afternoon and I immediately went to carry that information to the committee in the Prince George Hotel. I told them that the tremendous amount of evidence was so great it was in my home in Boston and that I would much prefer to have all important matters, if they were going into a lengthy investigation in this subject, in so far as my experience as an expert was concerned, and I only brought with me exactly what I had. We did not discuss the evidence; we did discuss some of the evidence. Much of the evidence I have with me has been brought

out in the course of this committee's investigation. For instance, the reference to the flag read here today came as a result of one of the papers I submitted to the committee, but that was not as to how I was to testify.

Q. When did you receive the subpoena? A. I received the subpoena in the Prince George on Sunday afternoon last, at 3 o'clock.

Q. You mean, this is immediately preceding the Sunday February 1st? A. Well, I will tell you I have been going — I first came in a sleeper at night and go back. I have been going so fast — this is Thursday — this was last Sunday.

Q. How did you come to receive the subpoena on Sunday last at the Prince George Hotel in New York City in which the Lusk Committee and counsel on the other side have their headquarters? A. In the Prince George?

Q. Yes? A. I was stopping at the Commodore, and I suppose the Committee having read the interview in the Literary Digest of the 24th of January, containing a three-page interview with me, which was copied from the World of January 4th, that they felt perhaps my experience might be worth while for this Committee.

Q. That is what you thought? A. Yes, sir, as far as I know.

Q. Nobody told you that, then? A. No.

Q. You said you stopped at the Hotel Commodore? A. I always stay there.

Q. That is at Lexington avenue and 42d street? A. At 42d street and Lexington avenue, yes, sir.

Q. And the Prince George is in 28th and 29th street, west of Fifth avenue? A. Yes, sir, I also stop there.

Mr. Conboy.— East of Fifth avenue?

Q. East of Fifth avenue? A. East of Fifth avenue.

Q. So you went to the Prince George Hotel, where these gentlemen have their headquarters, before you received the subpoena? A. No, I went after I received the subpoena.

Q. When did you get the subpoena? A. I got the subpoena about three o'clock on Sunday afternoon.

Q. And then you went to the hotel? A. I immediately went to the Prince George Hotel. I would go, although I got the subpoena. I wanted them to understand I was tied up with engagements.

Q. Then you met these gentlemen there and discussed this proceeding? A. Yes, sir.

Q. Didn't they tell you, or weren't you otherwise informed from your reading about this case, that one of the principal charges they make in this proceeding is that the membership of the Socialist Party is composed very largely of aliens; didn't you know that? A. Very frankly stating to you, I say that question never came up. I did not know anything about it.

Q. Had you been reading about this proceeding before? A. Not until I came up here.

Q. Didn't you know it was instituted at all? A. Yes.

Q. How did you find that out? A. I was in the West at the time, and the question was asked me by a questioner in Fort Wayne, whether it was on the day it opened or the day after, the question arose in my audience, and they asked me something about it.

Q. You say you have some official document of the Socialist Party which does contain statistics as to the alien membership; what is the name of that publication? A. Oh, I cannot say off-hand. It is in some one of the official publications of the party.

Q. But you are not able to say what it is? A. I believe it is the proceedings of one of the conventions.

Q. Can you take your oath now as to what it is, yes or no? A. I am under oath already, Mr. Block.

Q. Well, then, can you tell in answer to my question unequivocally, yes or no? A. I could not; it would not be fair for me to attempt to do it.

Q. I do not want you to say anything that is unfair. I only want you to answer questions in fairness to yourself? A. I am here purely to be fair.

Q. You have no official information of any kind issued by the Socialist Party; you have never had any contact with any official record of the Socialist Party to qualify you to state what percentage of the membership of that party is alien, and what percentage is citizen? A. I have. I have already stated my contact with the documents.

Q. I ask you about official documents? A. Official documents on Socialism.

Q. And now I ask you what they are, and you say you cannot tell me what they are? A. I cannot tell you what they are.

Q. That is all you say? A. I will be glad if you feel it pertinent enough to go to the trouble of getting them.

Mr. Block.— I would like you to produce it for the benefit of the Committee, and for the benefit of any one that is interested in these proceedings, because I would like to be enlightened on that subject. It has not come to my knowledge in the fourteen years of my association with the Socialist Party.

The Witness.— I will do my best.

The Chairman.— If you have any information on that subject send it over to me.

The Witness.— Gladly, Mr. Chairman.

Mr. Conboy.— There must be information of it in the National Headquarters of the Socialist Party.

Assemblyman Cuvillier.— Where was Victor Berger born, if you know? I want to know. That is all right. I want to show you that he was not a native. He was not born here.

Mr. Sutherland.— Before adjournment, I have just an inquiry, in the interest of time, if I may ask now, whether on the questions that are referred from the conventions back to locals in the nature of referendums, whether the individual members of the party write out a vote yes or no, which is filed somewhere. I ask that so that if that is so, we may have brought here, for the inspection of the Committee, the individual vote of these five Assemblymen-elect on the questions that were referred back to locals by the convention of 1917, and the convention of 1919, if there is no such individual vote preserved, why, then, of course, we could not have the benefit of it.

Mr. Block.— Mr. Chairman, may I answer that? I do not think that has been preserved, Judge, but these five men will be on the witness stand and I think they will be only too glad to tell you how they voted upon any question, either in the party or on the floor of the Assembly at any time during their careers. You will have ample opportunity to get that out of them.

Mr. Sutherland.— Thank you, Mr. Block. May I ask if in taking these votes from these referendums each member of the party casts a written ballot, yes or no, which is counted?

Mr. Stedman.— He marks it on the affirmative or negative, and signs his name, and then has the privilege —

Mr. Sutherland.— What becomes of these written votes?

Mr. Stedman.— Well, for New York, some one else will have to answer it.

Mr. Block.— They are tabulated and counted.

Mr. Conboy.— Who tabulates them?

Mr. Block.— The local secretaries make the tabulation. These things are too voluminous to preserve all individual ballots. We get the final tabulation in the end.

Mr. Sutherland.— Are the votes on the referendum of 1919 still preserved?

Mr. Block.— If the referendum has been completed. I do not know whether the individual votes — the total tabulations of its branch in Harlem, may have voted on the question. It sends its vote to the county secretary, and he in turn sends it to the State Secretary, and the State Secretary sends it to the National Secretary.

Mr. Sutherland.— Now, what we are looking for would be the individual tickets or votes of the Assemblymen.

Mr. Block.— That I will find out. If we have not those, and if what you want to know is, how these five men voted, you can have it from their own lips.

Assemblyman Cuvillier.— Now, I renew my question. Do you know where Victor L. Berger was born? He is an expert —

Mr. Block.— On birth control.

Mr. Stedman.— On socialism.

The Witness.— No, I am not an expert on birth control, as Mr. Block wants to know. I heard Victor Berger declare that he was a German, although I believe the record says Victor Berger was born in Austria-Hungary.

Assemblyman Cuvillier.— Mr. Stedman, you have the record. Where was he born? I know he was not born in the United States.

Mr. Waldman.— Neither was I.

Assemblyman Cuvillier.— I don't care.

Mr. Waldman.— And you are trying me.

Mr. Carlin.—I want to say as a member of the Bar of this State, that you are going to a very ridiculous degree, as if this was a most important thing in a matter in which five men are outraged before ten million people because one member of this committee does not realize the seriousness of the situation.

Assemblyman Cuvillier.—The proposition was made that a certain person of the Socialist party is an American — Mr. Berger, who was convicted by a jury, for twenty years was the head and shoulders of the Socialist party which you fellows stand for.

Mr. Stedman.—After stating his name and residence he says, "I was born in Austria in 1860. I came here with my folks in 1887." Does that answer your question?

Assemblyman Cuvillier.—That is what I want.

The Chairman.—Now, does that complete the examination?

Mr. Stedman.—No, I have one more question to ask.

By Mr. Stedman:

Q. I wish you to state how many national conventions of the Socialist party you have attended in person? A. I attended in person the congresses of —

Q. How many in the United States have you attended, national conventions? A. I would say now I attended two congresses.

Q. What conventions did you attend? A. 1908 and 1910 in Chicago.

Q. Where was the 1908 held? A. In the Fall, I believe.

Q. In what city? A. In Chicago. I will identify it by Chicago, both in Chicago.

Q. Where was the 1910 convention? A. Chicago.

Q. That was in Chicago, also? A. Also.

Q. Did you attend any others? A. I would not say definitely now.

Q. You are quite sure that you attended a national convention in 1908 and also one in 1910, are you? A. Yes.

Q. Two? A. Two.

Q. Did you ever attend any state convention? A. I was in the cities where they were held, but not in attendance.

Q. Did you ever attend them? A. No, I did not.

Mr. Stedman.—That is answered. That is all.

The Chairman.—That is all, Mr. Collins.

Mr. Roe.— Before we adjourn, I would like to make a request of the other side: Will you let us have Exhibit No. 21, being the notes of the Park View Palace meeting? The other is —

Mr. Stedman.— Do you need the Committee for this, or can they adjourn?

Mr. Roe.— Just a minute — the other is Exhibit No. 31, the stenographer's notes of the Brownsville meeting. If we can have them over evening, we can return them to you in the morning.

The Chairman.—Anything further?

Mr. Conboy.— Just a second, Mr. Chairman.

Mr. Roe.—And that last paper you put in evidence — you have got that right there, have you not?

Mr. Stanchfield.— I move that we adjourn, Mr. Chairman, until next Tuesday morning.

The Chairman.—The Committee and proceedings stand adjourned until Tuesday morning next at 10:30.

(Whereupon, at 4:05 P. M., on Thursday, February 5th, 1920, an adjournment was taken to Tuesday, February 10th, 1920, at 10:30 A. M.)

STATE OF NEW YORK — ASSEMBLY CHAMBER

In the Matter of the Investigation by the Assembly of the State of New York as to the Qualifications of Louis Waldman, August Claessens, Samuel A. deWitt, Samuel Orr and Charles Solomon to Retain Their Seats in Said Body.

THE CAPITOL,
ALBANY, N. Y., *February 10, 1920.*

Present:

Hon. Louis M. Martin,
Hon. George H. Rowe,
Hon. James M. Lown, Jr.,
Hon. Edmund F. Jenks,
Hon. Edward A. Everett,
Hon. William A. Pellet,
Hon. Edward J. Wilson,
Hon. Charles M. Harrington,
Hon. Harold E. Blodgett,
Hon. Theodore Stitt,
Hon. Louis A. Cuvillier,
Hon. Maurice Bloch,
Hon. William S. Evans.

Appearances:

For the Judiciary Committee:

Charles D. Newton,
Elon R. Brown,
Henry F. Wolff,
Archibald E. Stevenson,
John B. Stanchfield,
Arthur E. Sutherland,
Samuel A. Berger,
Thomas F. Carmody,
Martin Conboy.

For the Socialists:

Seymour Stedman,
S. John Block,
William Karlin,
Gilbert E. Roe,
Walter Nelles.

HON. LOUIS M. MARTIN, Chairman.

(The Committee met pursuant to adjournment at 10:40 A. M.)

Mr. Stanchfield.—If the Chairman please, you will recall on the opening of the last session on Thursday, in the afternoon, that Mr. Stedman read into the record the letter sent to him by the American Anti-Socialist League, Inc., signed by Joseph L. Nowlan, as Secretary, and that in reply to that communication we read into the record a letter from the Hon. Thaddeus C. Sweet to Mr. Nowlan in reply. So far as I am personally concerned, I should let the episode end there, but it is only fair to say that in response to the letter from Speaker Sweet the same branch or wing,—wing being the popular phrase invoked upon this proceeding,—of the American Anti-Socialist League, Inc., has written another letter to Mr. Sweet and ask that it be read into the record. I think it is only fair that it should be done. It is the American Anti-Socialist League, Inc., with the same officers as were named upon the document that Mr. Stedman read into the evidence (Reading):

“February 7, 1920.

“HON. THADDEUS C. SWEET, *Speaker of the Assembly, Albany, N. Y.:*

SIR.—In reference to our letter of February 4th and in answer to yours of February 5th, would say that we are very anxious not to be misunderstood or misquoted, and it has come to us that our plain statements have been so garbled and twisted by those interested, as to appear as though we were holding a brief for the ousted Assemblymen or Socialism itself, when, in fact, we were merely trying to protect the name of our incorporated organization from the efforts of Russell J. Dunn, an expelled member, and those who have been running all kinds of social and other money-making affairs, we are led to believe at this instigation, using our name to do so, without permission or authority, and who would continue to do so unless some drastic preventive action was taken.

“We have every desire to measure up the credibility and truthfulness of the evidence of Miss Chivers, who, we understand, is a member of an anti-Socialist league of Brooklyn,

in good standing, and we have only an expression of regret that Mr. Solomon or any other Socialist could get away with such a glaring misdeed as attributed to him.

"On the action of yourself and fellow members of the Assembly, in ousting the five Socialist Assemblymen from your body, we are in perfect accord. No doubt, you recall reading a resolution from our organization presented through ex-Assemblyman Link, of Brooklyn, who at that time did not rise to give a vote of thanks to our boys in uniform, and we certainly do not want seated in the Legislature of our State five men who, as adherents of International Socialism, do not believe in boundary lines and who would destroy them by force, if necessary. All true Americans believe and will protect with their very lives the boundary lines our forefathers fought to establish. Revolution is first born in the mental state, and in the Socialist state of mind is but a short step to the physical form, and there is no sophistry that permits sympathy either by the press or legislators with revolutionists, and may we say in conclusion that once the American people accepts a definite challenge from any internal organization to defend American ideals and institutions, it will tear down every legal barrier, uproot every constitutional landmark, and upset every tradition to remove the menace, and will establish whatever laws or measures that are necessary, that the American people of our great and glorious Republic shall remain masters in their own house.

"We understand that your reply to us has been read into the record, and in fairness to our organization and the cause we respectfully request that our reply be treated accordingly.

"Trusting that your efforts to remove the five Socialist Assemblymen in question shall be successful, we beg to remain

"Respectfully yours,

"AMERICAN ANTI-SOCIALIST LEAGUE, INC.,

"By JOSEPH L. NOWLAN,

"*Secretary.*"

"N. J. L. N."

Mr. Stanchfield.— Then I am going to mark in evidence but not read —

Mr. Stedman.— Mr. Chairman, on the general proposition, I want to object to having things marked in evidence that are not read.

Mr. Stanchfield.— Then I will read it.

The Chairman.— Well, you may read it.

Mr. Stanchfield.— It is a letter from the American Anti-Socialist League, Inc., of which Miss Chivers is a member.

Mr. Stedman.— I am objecting to it on the ground that it is hearsay.

The Chairman.— Overruled.

Mr. Stedman.— Exception.

Mr. Stanchfield.— (Reading):

“NEW YORK, *February 9, 1920.*

“HON. THADDEUS SWEET, care of Hotel Ten Eyck, Albany, N. Y.:

“DEAR SIR.— Below is a confirmation of telegram sent you yesterday:

“With regard to the published letter signed by a Joseph L. Nowlan and purporting to be an official communication from the American Anti-Socialist League, Inc., we beg to state that we are the only American Anti-Socialist League in New York City, or New York State, and, to the best of our knowledge, the only one in the country, holding our regular weekly meetings in Acme Hall, Seventh avenue and Ninth street, Brooklyn, N. Y.

“It is a fact that Ellen B. Chivers is a regular dues paying member of our League.

“Our anti-Socialist activities have always been to the utmost of our ability and strength, but, of course, we are not to be held responsible if the Socialists actually invent an Anti-Socialist League of their own to come to their defense. The avidity with which Mr. Stedman seized upon this letter of Nowlan's and his eagerness to introduce it immediately into the evidence do not indicate any particular lack of collaboration in the matter.

"It is not surprising that Socialists are eager to adopt any of their characteristically far-fetched clever tactics, especially in view of their lasting hatred for this most formidable enemy, our standard bearer, Mr. Russell J. Dunn.

"Very truly yours,

"AMERICAN ANTI-SOCIALIST LEAGUE, INC.,

"(Signed) ANNA T. CULLEN,

"*Secretary.*"

Mr. Stedman.—I wish to say, for the purpose of the record, that the letter which I read into the record was a copy of one sent to all the Assemblymen and to counsel. I in no way regarded it, therefore, as a private communication or one simply leading to the ascertainment of facts. The publication was so obvious that I felt that I was at liberty to offer it into the record.

Mr. Stanchfield.—As a study in psychology and tactics on a trial, with which my distinguished friend is fully versed and thoroughly cognizant, had he known we had sent that letter and received the reply that the Speaker received, I question very much whether he should have read it.

Mr. Stedman.—I should have read it, and I will comment on **that later.**

The Chairman.—Proceed.

Mr. Stanchfield.—I offer in evidence the document that was marked at the last session Exhibit No. 85 for identification, and which was handed to Mr. Stedman for his examination.

Mr. Stedman.—I am objecting to it on the ground that the **original documents** are the best evidence, or the persons who purport to give the information therein contained. Furthermore, it is incompetent on the ground that whatever opinion a man may have as to the failure or success of a political situation in a European country in no way qualifies or disqualifies him from an elective body or membership therein.

Mr. Stanchfield.—Now, as to the first objection, if the Chairman please, this is a public document, printed by the Government Printing Office at Washington and going from the office of the

Secretary of State and the United States Government to Mr. Lodge, the Chairman of the Committee on Foreign Relations of the United States Senate; and as far as that objection is concerned, assuming the relevancy of the document; assuming that, for the moment, it would be competent evidence in any judicial tribunal, now, second, coming to the proposition as to its competence, there are embodied in it a vast number of documents collected from various sources, that have to do and to deal with the program and the policy of the Soviet government, which is so closely allied as to make the evidence in regard to it, as the Chairman has heretofore held, admissible in this inquiry as against the five men under investigation. Quickly stated, each of the five men have signed in writing an application to become a member of the Socialist Party, and in the application which they make as a condition precedent to the acquisition of membership, they become bound by the platform and constitution of the Socialist Party. Now, we have introduced in evidence the constitution — nationally speaking — the State constitution and local constitution. We have introduced by-laws. We have introduced proceedings in conventions of the Socialist Party, to all of which these five men have subscribed. Therefore, upon the theory of the combination which we started out to demonstrate upon this investigation, all these acts of other people, wherever they may be situated, that run toward the accomplishment of a common purpose and a common design, are admissible upon this investigation and would be in a legal tribunal, if we were trying these people for conspiracy either in the State or in the Federal courts; and I do not desire the Committee ever to lose sight of the fact that under the decisions of the Court of Appeals and of the Supreme Court of this State the attitude of these five men, in subscribing to a platform in a party, by which they agree that their judicial or official action shall be controlled and governed by a committee of a subsidiary branch of that party is an application in law of the functions of their office and renders them amenable to a charge of conspiracy. Now, about that there is no room for discussion and no room for debate. On that particular theory, that this document does contain evidence that is relevant and material, it ought to go in the record.

Mr. Stedman.—I am not proposing now to argue at length counsel's theory on conspiracy. I simply advance this: Passive cognizance, approval and approbation, and knowledge, never con-

stitutes a conspiracy. There must be knowledge of the plan, knowledge of the purpose, and active participation in carrying out the unlawful specific intent or purpose charged. I am not proposing to argue it now, but simply to call attention between knowledge of the situation and active participation.

Mr. Stanchfield.—Mr. Stedman is quite right, if the Committee please, in the general statement that in conspiracy it is incumbent upon the prosecution, so to phrase the term, to show both knowledge and participation. Now, we have shown the combination; we have shown the conspiracy beyond all peradventure; we have proven in numberless ways the participation of every one of these five men in the endeavor to accomplish the program set forth in the Constitution; we have proven it by their speeches; proved it by the signature to their application card; proved it by their attendance at the meetings; proved it by their conduct at strikes. You take, for illustration, the little incident of testimony that is in the record where it appears at the time of the B. R. T. strike in Brooklyn; Mr. Solomon was there interfering with the officers who were to protect the community from disorder, a step into the link of the chain toward the general strike and revolution, — **which is the object at which these people are aiming, beyond all peradventure.** There is no question about it.

The Chairman.—Well, I will receive the testimony.

Mr. Stedman.—I ask that it be read, then.

Mr. Stanchfield.—That task I will leave for Mr. Stedman. **He is very fond of that sort of thing.** I am quite willing to give him the opportunity.

Mr. Stedman.—The proposition is this: If a document is offered in evidence I assume they are not offering simply blank pages; and to print the matter and refer to it leaves it very indefinite to pick out paragraphs,—leaves it one-sided, and I suppose it would take about an hour to read it.

The Chairman.—Print it in the record.

Mr. Stedman.—I think we ought to take an adjournment for a day or two until we have a chance to read and analyze everything put in evidence. Is the Committee going to read over all these things? Obviously not; they will expect counsel to.

The Chairman.—Proceed; proceed.

Mr. Stanchfield.— I offer in evidence, to be marked for identification, an exhibit, 87 for identification.

(The paper was received in evidence and marked Exhibit No. 87 for identification.)

Mr. Stanchfield.— I now offer in evidence, if the Chairman please, Exhibit 87 for identification, being a pledge signed by August Claessens, which he admits to be in his handwriting,— that is, the signature is in his handwriting (reading):

“ANTI-ENLISTMENT PLEDGE

“I, being over eighteen years of age, hereby pledge myself against enlistment as a volunteer for any military or naval service in international war, offensive or defensive, and **against giving my approval to such enlistment on the part of others.**

“Name (Signed). **AUGUST CLAESSENS.**”

“Address, 17 W. 115th Street, New York City.

“Please forward pledge to Anti-Enlistment League, 61 Quincy Street, Brooklyn, N. Y.

“Committee: **JESSIE WALLACE HUGHAN,**

“TRACY D. MYGATT.”

Mr. Block.— There is no date, is there, anywhere on that? They were signed some time before the war, two years.

Mr. Stedman.— The burden will be on them to show the date when it was signed. I will state, as coming from our clients, that it was two years before the war.

The Chairman.— That may go on the record.

Mr. Stanchfield.— Our contention is that they were signed on or about March, 1917.

Mr. Block.— Some time before the war.

Mr. Stanchfield.— That would be a month before the war. I offer the same pledge, signed by Louis Waldman, one of the five men under investigation, with the address “47 East 7th Street, New York City.”

Is Mr. Gerber here? I wanted to prove by Mr. Gerber that Mr. Louis Waldman, whose name appears on this Exhibit, was a delegate from New York to the convention in Chicago in September, 1919.

Mr. Stedman.— Conceded.

Mr. Stanchfield.— There was no other Louis Waldman a delegate from New York except you?

Mr. Waldman.— There was not.

Mr. Stedman.— There was not.

(The paper was received in evidence and marked Exhibit No. 88 for Identification.)

Exhibit 88 for Identification is as follows:

“ANTI-ENLISTMENT PLEDGE

“I, being over eighteen years of age, hereby pledge myself against enlistment as a volunteer for any military or naval service in international war, offensive or defensive, and against giving my approval to such enlistment on the part of others.

“Name (Signed) LOUIS WALDMAN,

“Address, 47 E. 7th St., N. Y. City.

“Please forward pledge to Anti-Enlistment League, 61 Quincy Street, Brooklyn, N. Y.

“Committee: JESSIE WALLACE HUGHAN,

“TRACY D. MYGATT.”

Mr. Stanchfield.— I now offer in evidence, if the Committee please, the deposition under open commission issued by the Committee to take the testimony of Joseph E. Harris, who resides at 198 Martin street, in the city of Milwaukee, county of Milwaukee, State of Wisconsin, the Commission being directed to Louis M. Byron, Esq., of Milwaukee, Wisconsin.

Mr. Stedman.— May I see it before it is admitted in evidence?

Mr. Stanchfield.— Certainly.

Mr. Block.— Have you got a copy of that that we can follow, Mr. Stanchfield?

Mr. Stanchfield.— Yes. (Handing same to Mr. Block.)

Mr. Stanchfield (reading).—"Joseph E. Harris, residence, 198 Martin Street City of Milwaukee, County of Milwaukee, State of Wisconsin. Occupation, newspaper reporter; age, 53 and upwards; being duly and publicly sworn pursuant to the directions annexed hereto, did testify as follows:

Mr. Stanchfield.— Direct questions were propounded by Wheeler P. Bloodgood, attorney representing the Judiciary Committee of the Assembly of the State of New York.

"Q. What is your present occupation? A. Newspaper reporter for the Milwaukee Journal.

"Q. How long have you been connected with the Milwaukee Journal as a reporter? A. About two years and eight months.

"Q. Did you see Louis Waldman, one of the parties to this proceeding now seeking a seat in the New York Assembly at a meeting in Chicago in the latter part of August or the first part of September, 1919? A. Louis Waldman of New York, who was a delegate to the National Socialist Convention in Chicago in September, 1919, spoke on the floor of that convention in my hearing. I am advised that this is the same Louis Waldman who is seeking a seat in the New York Assembly.

"Q. When did this convention take place, and where? A. This convention was held in Machinist's Hall, South Ashland Boulevard, Chicago, beginning about August 31st and closing about a week later.

"Q. In what capacity did you attend this convention? A. I attended the convention as a reporter for the Milwaukee Journal.

"Q. Do you remember how long you were in attendance at that convention? A. A trifle more than a week.

"Q. Between what days? A. Between August 30, 1919, and September 6, 1919.

"Q. Did you hear Louis Waldman, to whom I have made reference, make any statement in connection with the proceedings of the convention? A. A New York delegate said to be Louis Waldman spoke during a debate on the question of military training and militarism.

Mr. Stedman.—I want to object to any further testimony except as to any question which may show an identification of Louis Waldman. He says here, “a New York delegate said to be Louis Waldman.”

The Chairman.—Objection overruled; proceed.

Mr. Stanchfield.—He seems to overlook I obtained from him a concession that Louis Waldman was the delegate.

Mr. Stedman.—That is not the point. A man is talking in this room, a party enters in that door (indicating). Who is speaking? It is Mr. Stanchfield, a great lawyer; and a few minutes afterwards — no, it is Stedman, he is a bum lawyer from Chicago.

The Chairman.—No, no.

Mr. Stedman.—I am giving you an actual incident of what occurred in this room. I had in mind he would have conferred honor upon me continuously of being great because he supposed I was Mr. Stanchfield. I want to show identification coming from outsiders, identify the wrong man, and there is nothing here to show it is Mr. Waldman's statement he is testifying to, for some other person's identification, and not of his own knowledge who Waldman was.

The Chairman.—We will hear what it is.

Mr. Stedman.—All right.

Mr. Stanchfield:

“Q. Did you make a report of the proceedings of the convention to the Milwaukee Journal, including a statement made by delegate Louis Waldman during the course of the debate to which you have made reference? A. I did.

“Q. I show you what purports to be the home edition of the Milwaukee Journal of Saturday, September 6, 1919, and I call your attention to an article on page 12, entitled ‘Socialists vote for Soviet,’ by Staff Correspondent of the Journal. Will you please examine that article, and state whether it was written by you on or about the 5th of September, 1919? A. That article was written by me for the Journal on or about that date.

"Q. Does that article correctly give the proceedings of this meeting so far as reference is made to the same? A. It does."

Mr. Stedman.— That I want to object to.

Mr. Stanchfield.— Strike out the answer.

Mr. Stedman.— It is all right. Mr. Chairman, and gentlemen of the Committee, testimony is competent ordinarily of what a man recalls as to having taken place. He can say, "I saw this" and "I heard this" or that, or "this document was written by a person against whose interest it is introduced," or where it is a historic document, to establish the historic fact, but there is no rule of evidence by which a witness can be shown a piece of paper constituting a purported statement of facts which should or ought to be in the mind of that witness, and say "that is a correct statement," and then offer that in evidence.

For instance, would it be contended by Mr. Stanchfield that in a judicial proceeding a man could say, "Here is a statement containing the words spoken, agreement made, facts relating to a given circumstance occurring in an office in a negotiation for the sale of stock, payment of dividends. Mr. Jones, is that a true statement of the conversation between A, B and C with reference to the purchase and sale of stock, and their language? Yes, that is true; and the statement offered in evidence. Mr. Witness, good bye, it is in evidence, it is typewritten."

That is tantamount and exactly parallel in saying to a man: "Is this a correct newspaper report of what you have said? Yes, it is." I will show you why it is bad. You cannot cross-examine the man as to his recollection of who spoke, what was said immediately before, and what was said afterwards. What, in substance, was the language, what was the subject under discussion, because it is offering a written report, and you cannot examine or cross-examine that report, because it is not audible and it does not speak.

Mr. Stanchfield.— I should not disagree with his preparation. The next question and answer clears the whole thing up.

The Chairman.— You are cluttering up this record again. This was done by commission, and the Committee, I assume, had counsel examine him, and that he had counsel to cross-examine him. I want that commission read in evidence just as it is, and

then we will take up any discussion, striking out anything of that kind.

Mr. Stedman.— I assumed it was proper to make objection.

The Chairman.— You had counsel there.

Mr. Stedman.— That does not prevent making an objection as to an incompetent statement here.

The Chairman.— I understand that.

Mr. Stedman.— If I understood that having counsel there meant the violation of all rules of evidence, we would not have had counsel there.

“Q. Does that article correctly give the proceedings of this meeting, so far as reference is made to the same? A. It does.

“Q. Among other things appearing in that article is the following statement purporting to have been made by delegate Louis Waldman, of New York: ‘If I knew we could sway the boys when they get guns to use them against the capitalist class I would be for universal military training.’ Was the statement which I have just quoted, and which appears in said article, made by delegate Louis Waldman at said meeting in your presence? A. It was.”

Mr. Stedman.— I move to strike that out.

The Chairman.— Motion denied.

Mr. Stedman.— In other words, he is not testifying to what took place.

Mr. Stanchfield.— Why, of course he is.

The Chairman.— Proceed.

Mr. Stanchfield:

“By Mr. Bloodgood.— I offer in evidence the home edition of the Milwaukee Journal of September 6, 1919, particularly the article marked ‘Socialists vote for Soviet,’ on page 12, and ask that it be annexed to the testimony of the witness and be made a part of his deposition.”

Mr. Stedman.— May I add another objection: That it is leading, and the question calls for a “yes or no” answer.

The Chairman.—Overruled. Proceed.

Mr. Stanchfield:

“Commissioner.—The exhibit is received and endorsed as follows: ‘At the execution of a commission for the examination of a witness ‘In the matter of the investigation by the Assembly of the State of New York as to the qualifications of Louis Waldman, August Claessens, Samuel deWitt, Samuel Orr and Charles Solomon to retain their seats in said body’ this paper writing was produced and shown to Joseph E. Harris and by him deposited unto at the time of his examination before me, the undersigned.’—marked Exhibit A and made a part of this deposition.”

Mr. Stedman.—The admission of this is objected to on the ground I have named before.

The Chairman.—Overruled. Proceed.

Mr. Stanchfield.—“The cross questions were propounded by Henry F. Cochems, of Milwaukee, Wisconsin, attorney representing Louis Waldman.

“By Mr. Cochems:

“Q. The newspaper article, Mr. Harris, purports to quote in a box insert, certain language alleged to have been used by delegate Waldman, of New York? Did you at the time know Mr. Waldman personally? A. No.

“Q. Had you ever met him before? A. I may have seen him in previous days.

“Q. You were never introduced to him? A. No, sir.

“Q. How many delegates were there at that convention? A. In the neighborhood of from 90 to 100. The roll-call varied. Sometimes it was as low as 80 and sometimes a little over 100, according to my recollection.

“Q. There was a good deal of excitement in the discussion of the question of compulsory military training or universal military training, was there not? A. No, not as much as in the discussion of some other questions.

“Q. But the convention, as a whole, however, was what you would call a turbulent convention? A. Yes.

“Q. You do not know Louis Waldman now, the party to this proceeding? A. No.

"Q. I observe on page 2 of your deposition, the fifth answer on that page, that you say: 'A New York delegate said to be Louis Waldman spoke during a debate.' What have you in mind there in the expression 'said to be Louis Waldman.' A. I knew him as Waldman there by hearing the speaker recognize him by that name, or by being told by someone that that was Waldman.

"Q. Are you able to say now, under oath, that the person to whom you attribute this language is Louis Waldman, the party to this action? A. No.

"Q. How large a hall was that? A. It was a rather small hall. I should say that that part occupied by the convention delegates would not seat to exceed perhaps two hundred, as near as I can judge.

"Q. In what capacity were you there? A. To cover the convention as a reporter for the Journal.

"Q. The convention was open to the press? A. Yes.

"Q. Can you, of your own knowledge, state whether or not it was covered by a large number of government secret service men? A. I could not say positively. I believe there was one man whom I supposed was a government man, who was there most of the time.

"Q. At the time that you say this statement was made by one whom you considered to be Louis Waldman, did the secret service officer, or any other police official, interrupt? A. No.

"Q. The incident passed without raising any commotion? A. Yes.

"Q. Were there present certain advocates of military training? A. I haven't any recollection at this time of anything they said in favor of military training at the convention.

"Q. You were formerly a member of the Socialist Party? A. Yes.

"Q. And you were formerly an editor of the Milwaukee Leader, but discontinued your relations with the Leader, and, I think, went to the Journal? A. First to the Sentinel and then to the Journal.

"Q. You appear here as a voluntary witness? A. Yes, I presume so.

"Q. You also appeared as a voluntary witness at the trial of the United States v. Berger et al.? A. Yes.

"Q. You are not now a member of the Socialist Party?

A. No.

"Q. The paper with which you have been for two years and eight months is intensely hostile towards the Socialist Party, is it not? A. Only to that particular attitude of the Socialist Party in opposition to the U. S. Government during the war.

"Q. Well, you have been in harmony with the attitude of your employer, the Milwaukee 'Journal,' since you have been with it on this attitude towards Socialists, or those phases of Socialism to which you have just referred? A. Yes.

"Q. The 'Journal,' after you went with it, made an insistent campaign to destroy the Milwaukee 'Leader,' did it not?

"Mr. Bloodgood.—I object to this question as incompetent, irrelevant and immaterial.

"Mr. Cochems.—My purpose in asking this question is to show the animus of the employer of Mr. Harris. The Milwaukee 'Leader' is a Socialist paper.

"A. Not to my knowledge.

"Q. The Milwaukee 'Journal' appealed to the advertisers of the City of Milwaukee to withdraw their patronage from the 'Leader' while you were with it, did it not, charging that if they advertised in the 'Leader' they were traitors? A. The 'Journal,' I believe, published an editorial in which it alleged certain statements on a certain attitude of the 'Leader,' and then asked advertisers the question of whether they would patronize a paper that took that attitude.

"Q. Did it not impute treason to anyone who advertised in that paper at that time? A. That is not my interpretation of the article referred to.

"Q. In the Chicago Berger trial you testified, did you not, as to purported conversations between yourself and Mr. Berger prior to and during the war, which conversations you claimed occurred while you were acting in the capacity of an editor employed by him on the 'Leader?' A. I did.

"Q. You were very active during the war in war service? A. No, not particularly.

"Q. A member of the American Protective League?
A. I was a member of one organization. I think it was the American Protective League.

"Q. Were you also a member of the National Defense League; I think you testified to that in Chicago? A. I don't recollect. I sent in my name as a member of one of the organizations that was formed very soon after the war. Whether it was the American Protective League or the Defense League I could not say positively.

"Q. You were sent by the Milwaukee 'Journal' on this assignment to cover that Socialist convention in Chicago?
A. Yes.

"Q. Do you know whether you were sent because you had previously been a member of the Socialist Party? A. I was assigned presumably because I was quite familiar with the Socialist Party and with the radical movement generally.

"Q. And had been a part of it, had you not? A. Yes.

"Mr. Bloodgood.—Did any of the delegates at the convention take exception to the statement of Waldman at the time the statement was made? A. Not that I recollect at this time."

Mr. Stanchfield.—And the paper is a part of the deposition?

The Chairman.—All right.

Mr. Stanchfield.—I offer in the record—excerpts have been read from it from time to time—and I will allow my reading friend, Mr. Stedman, to read it into the record, the two volumes constituting the trial and evidence and all the proceedings had in the case of the United States v. Victor L. Berger et al., the two volumes being exemplified, so as to make them competent evidence.

Assemblyman Evans.—Is that in the case already?

Mr. Stanchfield.—No. We have been reading excerpts from it. Of course, I do not intend to read it in evidence, but I have to furnish a foundation for the evidence that has gone in.

Mr. Stedman.—Mr. Stanchfield says that he will accord us the privilege of reading it, and as counsel for the Committee, I assume he speaks for the Committee?

The Chairman.—I did not know but what you would read certain portions.

Mr. Stedman.—Then his offer was entirely gratuitous, was it not?

The Chairman.—Yes.

Mr. Stedman.—I would like to reserve for a moment an objection to the newspaper which has been attached to this commission and offered in evidence. The witness testified by a leading question that what was wrote for his paper was the truth, which, of course, is expected from every reporter of the peculiar loyalty of Mr. Harris, backed up and fortified by considerable animus, and supported by Mr. Bloodgood, who is another man that is seeing blood all the time, and red, and I do not see that his statement that he honestly and truthfully reported what was shown to him in the Journal under his name, and that he can state what he reported is in any way supported by or verified by five or six pages of a Milwaukee paper, makes it any more truthful. If it is I should like the paper marked and to go over the various articles running from "Hungary" to the "Near East," and "Vote for Assemblymen," which is all offered in evidence, down to the advertisement of "Bites and Stings."

The Chairman.—I assume that paper was placed in evidence in relation to the alleged statement of Mr. Waldman. I do not think we care very much about the rest of it.

Mr. Stedman.—They are offering the paper in evidence and I am objecting to it, and the effect it may have. You have his statement, and you do not make it any more truthful by putting in evidence the paper. In other words, you could have twenty papers here and thus multiply the veracity twenty-fold. I am moving to strike out the paper. If it is to go in, I want it detached and an opportunity to look it over. I want to say this: If they offer a carload of stuff they cannot come back and criticize us for putting the rest of it in, and they cannot criticize the Committee for allowing it to go in if all this is to go in. If they do that then the responsibility is with you. I want to detach the paper.

I also want to object to the introducing of 1,400 pages of the Berger case, and I object to it on the ground that it is unfair to us, except on the theory that we proceed to read it through from beginning to end, and I mean that for this reason: You come to an argument in this case and they single out an

excerpt here and an excerpt there that has no relation to this matter, and then we start in to read twenty-five or thirty pages on the others. They introduce an article here, an old clipping, and that may require the reading of five or six pages from that record. It was taken from a Catholic journal. If they wish to refer to some particular parts of that record within a reasonable time we have no objection to it, but if they are to surprise us by referring to some part, then I propose to have it all read if we can.

The Chairman.— Mr. Stedman, we get your position. I think there should be some rule as to what you are going to read in these books. Do I understand, Mr. Stanchfield, that we are to have all those books printed in evidence?

Mr. Stanchfield.— We have been reading from time to time excerpts from that record. Of course, there is no possibility of Mr. Stedman being taken by surprise because he was the chief counsel in that case of Mr. Berger, and knows what is in those volumes thoroughly.

Mr. Stedman.— My objection is as to what you may select and your claim of applicability.

Mr. Stanchfield.— In order that there may not be any misunderstanding about it, if we like to read by way of argument or summary any given portions of that record we will advise counsel in advance.

The Chairman.— I assume you are limited, as Mr. Jenks suggests to me now, to the excerpts you have already read.

Mr. Stanchfield.— Certainly.

The Chairman.— If you are going to read others Mr. Stedman is to have notice of it?

Mr. Stanchfield.— That is exactly what I am proffering to him.

The Chairman.— No part of that will be printed except the excerpts read. We don't permit that, Mr. Stedman, at all.

Mr. Sutherland.— Now, Mr. Chairman, Mr. Block was to get from Chicago information as to the adoption of the minority report on the referendum sent out from the convention of September, 1919.

Mr. Block.— I wish to state, as there is in evidence this ballot containing amendments to the national Constitution of the party, also a suggested majority report and suggested minority report with regard to international questions. The returns show all the amendments to the Constitution have been adopted and that with respect to the majority and minority reports on the international question the minority resolution was adopted by a vote of 3,475 against 1,444 for the majority report, making a total vote of less than 5,000 on these questions, although the party membership at the time in good standing was considerably over 30 or 35 thousand.

Mr. Sutherland.— It has been conceded, I think,— if I am wrong please correct me,— that the vote in the State of New York and the vote in the three locals, New York, Kings county and Bronx, was favorable to the minority report.

Mr. Block.— As shown by the votes cast which, however, were a minority of the membership of the party.

Mr. Sutherland.— Very good. Now, Mr. Gerber, will you please take the stand?

ADOLPH GERBER, recalled, testified as follows:

By Mr. Sutherland:

Q. You were asked some questions, Mr. Gerber, concerning the organization and control of the company publishing the New York Call. I would like to ask a few more questions along that line. We observe by the interrogatories or the questionnaire published in the course of the proceedings instituted by the Workingmen's Co-operative Publishing Association as relator against Mr. Burleson, Postmaster-General, to compel Mr. Burleson to accept and forward through the mails the New York Call, that Mr. Willcox in an affidavit made before you as Commissioner of Deeds on the 8th of January, 1919, says that the membership corporation of this company consists of 521 members. Did you verify that? Is that an accurate statement of your membership? A. I guess it is a little more than that.

Q. You think it is more than that now? A. Yes.

Q. That was correct at the time the affidavit was made, I suppose? A. Yes.

Q. Now, is it not true, Mr. Gerber, that locals of the Socialist Party of America elect delegates or representatives from those locals to sit in the Board of Management or Control of the New York Call? A. The locals in Greater New York elect one each on the Advisory Committee on the Board of Directors.

Q. Is that confined to New York? A. New York city.

Q. Are there not some locals in New Jersey that have the privilege of representation in a similar way? A. Not on the Board of Directors.

Q. Well, was there some other board, some other organization that has some advisory capacity? A. No, there is none except the Association.

Q. How does it come that the New York locals can have this representation in the Board of Directors? A. By a provision in the by-laws of the Association.

Q. I see. How long has that provision existed? A. Oh, for the last eight or nine years.

Q. Yes.

(A paper was received and marked Exhibit No. 89 for Identification.)

Q. Let me show you Exhibit 89 for Identification and ask you if you had personal knowledge of the circulation of pamphlets containing the printed matter that I show you on the back cover.

A. This is a copy of the old State Constitution of the Socialist Party, or rather, it is a little pamphlet printed concerning the Socialist Party organization.

Mr. Stedman.—When you say “old,” will you give us the years?

Mr. Sutherland.—Wait a minute; I would like to get that too.

The Witness.—This was published around,—let me see—eleven—about 1909.

By Mr. Sutherland:

Q. 1909? A. Yes.

Q. When was your Constitution first adopted in the State of New York by the Socialist Party of America? A. 1900.

Q. And how many times has it been amended since that time? A. I guess about once every two years.

Q. Every two years you have the Constitution looked over and revised and amended, do you? A. Yes, sir.

Q. Was there a committee, standing committee, on the revision of the Constitution? A. Why, no; the State Convention does that.

Q. Yes. When was the last revision of your State Constitution? A. 1918.

Q. 1918; yes, sir. And is the copy which we have put in evidence here of the State Constitution the latest revision? A. I don't remember. If your clerk will show me —

Q. Will you be kind enough to give us, so we may be correct about it, your latest up-to-date edition of the State Constitution?

The Chairman.— I think that was in earlier in the case.

Mr. Sutherland.— We put one in. Whether it contains the amendments of 1918 I am not certain.

The Witness.— I think I gave Mr. Berger a copy of the latest, but I am not certain.

Mr. Sutherland.— We will have it marked for identification to be sure.

(Witness hands paper to Mr. Sutherland.)

Mr. Sutherland.— The paper that you handed me contains the present constitution as it is in existence today?

The Witness.— The one in existence today.

Mr. Sutherland.— I will have it marked for identification.

The Chairman.— I think you will find that is in evidence.

(Paper marked Exhibit No. 90 for identification.)

By Mr. Sutherland:

Q. Now, Mr. Gerber, on the back of Exhibit 89 for identification is contained this printed statement. I am going to read it to you and ask you if you had knowledge of the fact that these documents were being circulated with this statement on them (reading): "Read the New York 'Call' published at 409 Pearl Street, New York, 2 cents daily, 5 cents Sunday. The 'Call' is the official organ of the Socialist Party of the State of New York, and every Socialist or sympathizer is urged to become a regular reader of the same. Sample copies mailed free of charge upon request. For German workers we recommend the following

papers: The 'Vorwaerts,' New Yorker 'Volkes-Zeitung,' daily published at 15 Spruce Street, New York." You knew that those books were circulated with that statement upon them? A. Yes.

Q. Now, in your cards that were issued to members upon being accepted in the Socialist Party of America, you printed a statement, there was printed a statement, was there not, that the New York "Call," the "Volkes-Zeitung" and the Jewish "Forward," were the three official organs of the Socialist Party? A. I don't know what card you are referring to, Mr. Sutherland.

Q. Issued by the organization on accepting a man as a member. Let me show you one for the purpose of refreshing your recollection (handing paper to witness). A. Yes, I see it is printed on there.

Q. Yes. Now, that card you issued yourself, didn't you, Mr. Gerber? A. Yes, sir.

Q. In your official position? A. Yes.

Q. What is that official position? A. Executive secretary.

Q. And to whom did you issue that card of membership? A. This particular card?

Q. Yes, sir. A. Issued to Mr. Nuorteva.

Q. What is his first name? A. Santeri Nuorteva.

Q. Who is he? A. A member of the Socialist Party.

Q. Surely. That card shows that he is a member of the Socialist Party of America? A. Yes.

Q. And of what branch? A. At the time he was a member of the Finnish Branch. If you will permit me to say, he is not a member of the Socialist Party at the present time, **having withdrawn** from the party about a year ago.

Q. Yes. On what date did you issue that card to him? A. This is a duplicate card, not the original. Mr. Nuorteva came to New York as a member of the party.

Q. Was he a member before he came to New York? A. Yes.

Q. Where did he join? A. I think in Portland, Oregon.

Q. That is the card you issued to him? A. That is the card we issued in our office.

Q. On what date? A. It looks as if—

Q. The date is on there. A. I cannot see very well; that black and red doesn't show. I think it is 4/14/18.

Q. That is, the 14th day of March, 1918? A. 14th of April, rather.

Q. January, February, March, April,— you are right. Now, on that date you issued a card of membership in the Socialist Party of the State of New York, County of New York, Local New York, Finnish Branch, to Santeri Nuorteva, of 2056 Fifth avenue. On the back was printed, "Party Organs: The New York Call, daily and Sunday; the Volkes-Zeitung, daily and Sunday; The Jewish Daily Forward." A. Yes, sir.

Mr. Sutherland.— I offer that in evidence.

The Chairman.— Received.

(The paper was received in evidence and marked Exhibit No. 91 of this date.)

Q. Do you know of what nation Mr. Nuorteva is a citizen?
A. I do not; I know he is a Finn.

Q. He hadn't made any application to be made a citizen in the United States, had he? A. My information is that he did.

Q. Don't you know he came here as the representative of the so-called Russian Soviet Bureau in the United States? A. I do not.

Q. Didn't he come here as an assistant or attache of Mr. Martens? A. He did not.

Q. Or Embassy? A. Mr. Nuorteva has been in the United States for the last twelve years.

Q. I stand corrected as to that. He became Mr. Martens' assistant, did he not, after Mr. Martens came to this country?
A. Why, he became an assistant in Mr. Martens' office after they opened that office.

Q. Wasn't it a kind of an official position that he had, no mere clerical position,— wasn't he given some title, as Secretary of the Soviet Bureau? A. Yes, at the time when he was appointed Secretary to Mr. Martens, Mr. Nuorteva resigned as a member of the Socialist Party for the reason that he thought it was not compatible —

Q. Don't state your reasons. A. — that he did not think it compatible to be both secretary of the Russian Embassy and a member of the Socialist Party.

Mr. Sutherland.— Is that received?

The Chairman.— Yes, I am going to receive it.

Q. Is there any official resignation in writing? A. There was an official resignation, verbal resignation, to the Finnish Branch.

Q. Were you there when that was done? A. I was not.

Q. You are speaking from some information that has been conveyed to you by somebody else? A. By the secretary of the branch.

Q. And he told you that Nuorteva handed in his verbal resignation; he said something? A. He said in the words I said here.

Q. You are repeating now what the secretary of the Finnish Branch told you what Nuorteva said? A. Also what Mr. Nuorteva told me personally.

Q. Now, do you know where Mr. Nuorteva is now? A. I understand he is in Washington.

Q. Who was the secretary of this branch that gave you that information? A. Mr. Hadman.

Q. What is his first name? A. Willard.

Q. What is his address? A. 64 East 128th street.

Q. Is that Branch still in existence? A. It is.

Q. Recognized as a branch of the Socialist Party of America? A. Yes.

Assemblyman Cuvillier.— 48 East 128th street?

The Witness.— Right in your district.

(Discussion off the record.)

Mr. Sutherland.— The counsel have developed by conference a line of inquiry we would like to follow unless the chair — of course we will yield to your own preference —

The Chairman.— I allowed him to finish the matter because it would have been a matter of direct examination anyway.

By Mr. Sutherland:

Q. Nuorteva is still acting, isn't he, under the title of Secretary of the Russian Soviet Government Bureau? A. I don't know what his title is, Mr. Sutherland; I know he is employed in that office. I am not bothering much with his affairs.

Q. You are acquainted with Mr. Martens, are you not? A. I met him twice.

Q. Do you know what title Martens goes by in the official papers which he brought here? A. I never saw them, consequently I don't know.

By Mr. Sutherland:

May I read at this point, Mr. Chairman, merely to have it in a convenient place in the record, from the testimony of Ludwig C. A. K. Martens, taken before the Joint Legislative Committee, at page 129 of the printed exhibit in this case, and then at page 135, concerning Mr. Martens' credentials. I want to get his credentials in evidence at this point.

Mr. Sutherland.— I first read from page 129.

Mr. Roe.— What is the document from which you are giving the page?

Mr. Sutherland.— I am reading now from the testimony of Martens. You have a printed copy, and if you will turn to page 129 at the bottom of the page, you will find reproduced one of the two credentials that I wish to read.

Mr. Stedman.— Will you wait a minute to see if I can get a copy of that before you start to read.

The Chairman.— Take mine. It is at page 129.

Mr. Sutherland.— Mr. Martens translates from the Russian his own credential as follows:

Mr. Roe.— Now, just wait one moment. I object to that, your Honor, as being wholly immaterial and irrelevant, and also incompetent. At the time this testimony was offered none of us on this side of the table had opportunity to cross-examine him, and the objection is made because it now appears that the testimony is objectionable for a number of reasons, among others that it never appeared to have been read over and subscribed to by the witness. It is obviously full of stenographic mistakes, and more than that, it has no possible reference to this case — the case of these five men — whether Mr. Martens had so-called credentials from the Soviet Government, or any other government. Counsel will agree with me that there is nothing in the record of this Martens' testimony which shows any connection between him and any of the five men here. It does not show that he is even a member of the same party, or any political organization, or any other organization of which they are members; and that they have had absolutely nothing to do with his activities, and had had no knowledge of them, as far as any evidence shows. Now, that being true, it seems to me that we are going very far afield to

bring in here what purports to be a copy of his credentials from the Russian Government. It has absolutely nothing to do with this case.

Mr. Sutherland.—That question has been passed on, Mr. Chairman.

The Chairman.—I have admitted the whole of this testimony, because I think it is important in a way.

Mr. Sutherland.—May I read them, Mr. Chairman?

The Chairman.—You may read.

Mr. Sutherland (reading):

“Be it known that the Russian citizen, Ludwig Christian Alexander Karl Martens, who is living in the United States of America, is appointed as a representative of the People’s Commissariat for Foreign Affairs in the United States of America.’ Signed by ‘The People’s Commissioner for Foreign Affairs, Chicherine’ and ‘Secretary F. Schenkin.’

“Then the Attorney-General asked Mr. Martens to translate the heading that was in the corner of that exhibit. Mr. Martens translated it as follows: (reading.)

“Russian Socialist Soviet Republic, People’s Commissariat for Foreign Affairs. Bureau of the People’s Commissariat. 2d of January, 1919, No. 918. Moscow, corner of Spiridonofka and Patrnardsky side street. Telephone number 42996.”

Now, I read also from page 135 of Mr. Martens’ testimony — another credential —

The Chairman.—Now, gentlemen, I regret to say that the law provides the Assembly convene at 12 o’clock to elect Regents and members of the Farms and Markets Commission. That is absolutely essential. I am afraid we will have to adjourn until 2 o’clock. Is that agreeable?

Mr. Stedman.—That is very agreeable.

The Chairman.—Is that agreeable to you, Mr. Stanchfield?

Mr. Stanchfield.—Yes, that is agreeable.

The Chairman.—We stand adjourned until 2 o’clock sharp.

(Whereupon, at 11:55 A. M., the Committee recessed until 2 o’clock P. M.)

AFTER RECESS, 2:08 P. M.

The Chairman.— Proceed.

Mr. Sutherland.— I will now read, Mr. Chairman, from page 135 of Martens' printed testimony.

Mr. Block.— 135?

Mr. Sutherland.— Page 135 (reading):

“ Republic of the Russian Federative Soviets,” and so forth.

“ To whom it may concern: The People's Commissariat for Foreign Affairs of the Russian Federative Socialist Soviet Republic hereby declares that citizen Ludwig Martens is authorized to take in charge and administration, in the name of the Russian Federative Socialist Soviet Republic, all movable and real estates of the former Embassy and Consulates and all properties on the territory of the United States of America belonging to the Russian Federative Socialist Soviet Republic. Citizen L. Martens is also entrusted with the right to solicit and answer claims, within the limits of the United States of America, in all cases where material interests of the Russian Federative Socialist Soviet Republic are engaged, to prosecute all civil and criminal cases on behalf of the Russian Federative Socialist Soviet Republic, in tribunals, courts and other institutions of the United States of America.

“ Citizen L. Martens is entrusted to defray all expenses on behalf of the Russian Federative Socialist Soviet Republic and to receive all moneys claimed by the Russian Federative Socialist Soviet Republic in the United States of America, and issue receipts.

“ People's Commissary for Foreign Affairs,

“(Signed) G. TCHITCHERIN.

“ Seal of the

“ People's Commissary,

“ Secretary,

“(Signed) J. LEWON.”

Then follows this certificate:

“ I hereby testify that the above is a true copy of the original document.

“(Signed) S. NUORTEVA,

“Secretary of the Russian Soviet Government Republic Bureau.”

MICHAEL J. DRISCOLL, recalled, testified as follows:

Direct examination by Mr. Sutherland:

Q. Mr. Driscoll, did you, with a search warrant, obtain possession of certain documents in the office of the Russian Soviet Embassy, so-called? A. Yes, sir.

Q. In New York city? A. Yes, sir.

Q. And when did that take place? A. On June 12, 1919.

Q. Among the papers taken on that occasion was there a letter from Adolph Germer to Santeri Nuorteva? A. There was, yes, sir.

Q. Did you have a photostat copy made of that letter? A. I did, sir.

Q. Is this the photostat copy that you had made? A. Yes, sir.

Q. Do you know where the original is? A. I could not say where it is.

Mr. Sutherland.—I will say, Mr. Chairman, we have made diligent search for that original, and it seems to be mislaid. I wish to offer this photostat copy in evidence.

Mr. Stedman.—May I see it?

• Mr. Sutherland.—The original, Mr. Chairman, was offered in evidence on the joint legislative committee hearing, but it seems to have been mislaid. I offer this in evidence.

The Chairman.—It will be received.

Mr. Stedman.—I object to that as incompetent, irrelevant and immaterial.

The Chairman.—Overruled. It is received.

(The photostat letter referred to was received and marked Exhibit No. 93 in evidence of this date.)

Mr. Sutherland (reading).—This Exhibit 93 is headed "Socialist Party National Office, Executive Secretary, Adolph Germer, 803 West Madison Street, Chicago, Ill. February 15, 1919. Santeri Nuorteva, 299 Broadway, New York City, N. Y. Dear Comrade: This is to notify you that you have been nominated as a delegate to the International Congress. If you accept the nomination fill in the enclosed blank, and return it to this office not later than March 15, 1918. Acceptances received after

that date cannot go on the ballot. Fraternally yours Adolph Germer, Executive Secretary, per B. H. B."

Q. At the same time did you obtain at the same place the document that I now show you (showing paper to witness)? A. Yes, sir.

Mr. Sutherland.— I offer this is evidence, Mr. Chairman.

The Chairman.— Received.

(The paper was received in evidence and marked Exhibit No. 94 of this date—.)

Mr. Stedman.— Same objection.

The Chairman.— Overruled.

Mr. Sutherland.— Exhibit No. 94 is headed, "Socialist Party, 6th Assembly District, 106 Avenue C, New York city, April 3rd, 1919." I might add that in the printed heading we also find these words: "Assemblyman Elmer Rosenberg; Alderman Abr. Beckerman; Charles Grossman, organizer; Regina Silverman, Financial Secretary; Isaac M. Schiff, Treasurer."

Mr. Stedman.— No contention that any of these men come from that district.

The Chairman.— No.

Mr. Sutherland (reading):

"Mr. L. C. A. K. MARTENS, 299 Broadway, City:

"DEAR COMRADE MARTENS.— The East Side Socialists, that great body of revolutionary comrades have as yet had no opportunity to greet you.

"We would greatly desire to arrange a large meeting so as to give you an opportunity for us to welcome you.

"The revolutionary socialists of the Great East Side of New York are, it goes without saying, behind the Soviet Russia and no greater honor could be accorded them than to greet and hear the representative of the First Socialist Republic of the world.

"Any date you suggest would be convenient to us.

"Appreciating your early reply, I am,

"Yours sincerely,
"Chas. Grossman."

Q. Did you also obtain possession at the same time and place of the telegram which I show you (handing paper to witness)?
A. I did.

Mr. Sutherland.— I offer that in evidence.

(Paper received and marked Exhibit No. 95 in evidence.)

Mr. Stedman.— Same objection.

The Chairman.— Same ruling.

Mr. Sutherland.— Exhibit No. 95 is on a Western Union Telegraph blank, dated New York, March 24, 1919.

“L. A. C. K. MARTENS, Room 1812, 299 Broadway, New York City.

“DEAR COMRADE.— The International Socialist Revolutionary Group of New York hail the first representative of the Russian Socialist Federal Soviet Republic to the United States, and, through him, the Russian Soviet Republic, with transports of joy unlimited. The group wish to reiterate most emphatically their unstinted devotion to the cause of the Russian proletariat, and faithfully pledge every service within their power which may contribute to the success of that sacred cause. Yours for the emancipation of the world,

“ The International Socialist Revolutionary
Group, Rose Baron, Secretary,
317 Second Avenue.”

I now offer in evidence —

Mr. Stedman.— By the way, I understand that is not a Socialist group that sent that telegram, and it is not affiliated with the Socialist party. Some of them here say they never heard of it. Now, I want to object to its admissibility until there is some connection shown between that and the Socialist party and similar groups.

Mr. Sutherland.— Even if it were not a branch of the Socialist party, it shows the various elements which find unity and a connecting bond in Mr. Martens, and the propaganda and purpose which he represents here.

Mr. Stedman.— Supposing the Union League Club sent him such a telegram?

Mr. Sutherland.— Well, produce it. We would like to see it.

The Chairman.— Well, Mr. Stedman makes that statement.

Mr. Sutherland.— I now offer in evidence an article from the weekly bulletin of the Bureau of Information of Soviet Russia, dated April 14, 1919, the article being headed: "Hillquit with the Socialist Soviet Representatives." One sentence in there, Mr. Chairman, I do not care to read. The rest, I think, is competent.

Mr. Stedman.— I think he should show some connection between the Soviet bulletin and the Socialist party. I object to it on the ground that no connection is shown between those who are publishing the article and the Socialist party.

Mr. Sutherland.— The announcement is made by the Soviet Bureau that Mr. Hillquit has been appointed to the post of counsellor for that Soviet Bureau. That is the significance of it.

Mr. Stedman.— Their announcement would not prove that.

Mr. Sutherland.— Well, it bears some significance.

Mr. Stedman.— For instance, I understand their public announcement is that Dudley Field Malone is one of their counsel; that does not make him a party to the Assemblymen here.

Mr. Block.— Senator Hardwick is representing Mr. Martens in Washington now.

Mr. Sutherland.— No, Mr. Chairman, the language is not appointment of someone as a lawyer, but someone to the post of counsellor. It has an ambassadorial significance. The language is not the employment of a lawyer, but the appointment of a representative in a —

Mr. Stedman.— Whether they would say we are appointed to the post —

The Chairman.— I will exclude it.

Mr. Sutherland.— May it be marked for identification, Mr. Chairman?

The Chairman.— I do not think it is important.

(The paper referred to was marked Exhibit No. 96 for identification.)

Cross-examination by Mr. Stedman:

Q. Your full name, Mr. Driscoll? A. Michael J. Driscoll.

Q. Where do you reside? A. 531 West 133d street, New York City.

Q. What is your business? A. Special agent of the Joint Legislative Committee of the State of New York.

Q. When were you employed by that Committee? A. The exact date, I think, was around June 3rd or 4th.

Q. What was your business then, before June 3rd or 4th — 1919, I assume, you refer to? A. Yes.

Q. What was your business before that? A. I was a salesman for the period from February until that date.

Q. For whom? A. Myself.

Q. What were you selling? A. Soap for two months.

Q. Who secured you the position with this Committee? A. Nobody. I went and applied for it.

Q. This is generally known as the Lusk Committee? A. Yes.

Q. And you called of your own volition? A. Previous to that I was connected with the Military Intelligence.

Q. The Bureau of Intelligence? A. The Military Intelligence of the United States Army.

Q. Well, then, you were not notified to present yourself before the Lusk Committee? A. No.

Q. You went there? A. I went there.

Q. Who employed you? A. I was employed — you mean, who employed me directly?

Q. Yes, sir. A. Senator Lusk.

Q. Did you know him before this time? A. No.

Q. Did you see anyone else in connection with it? A. Yes.

Q. Who else? A. I saw a gentleman named Mr. Converse.

Q. Converse? A. Yes.

Q. Who is he? A. He happened to be the Chief Clerk there at the time.

Q. Do you know Mr. Nathanson? A. Nathanson?

Mr. Sutherland.—It does not seem this general cross-examination is called for on the mere identification of these letters. He is going to be called later on another subject.

Mr. Stedman.—Then I will have less to ask him.

The Chairman.—This witness will be called on another matter?

The Witness.—Any particular Mr. Nathan?

By Mr. Stedman:

Q. Do you know several? A. I know one Mr. Nathan, who is a cigar manufacturer.

Q. You do not know any Nathan in connection with the Lusk Committee work? A. No.

Q. Never heard of him? A. No.

Q. Were you present when the Soviet bureau was raided? A. Well, I was present when the search warrant was served there.

Q. Who was with you? A. There were several other men.

Q. Name some? A. There was a police officer, I cannot recall his name now.

Q. Can you name anyone who was with you? A. Not right offhand.

Q. You can name no one that was with you? A. Not at this time.

Q. You were present when these papers were taken? A. Yes.

Q. Where were they taken to? A. I do not know where they were taken to. They were wrapped up and taken in some vehicle, and the next time I saw them was in the Prince George Headquarters.

Q. When they were taken out of the room you did not see them until the next day? A. The next day.

Q. Then in the Prince George Hotel? A. Yes.

Q. Who did you see there? A. Several members of the Committee.

Q. Name some of them. A. Mr. Stevenson and other agents who were working there.

Q. Did you know them? A. Yes.

Q. Name them? A. Stevenson, Converse, some state troopers.

Q. Some state troopers? A. Yes.

Q. You don't know their names? A. Hepburn, I think was one of their names.

Q. Hepburn? A. Yes.

Q. Then where were those papers taken from there? A. From where?

Q. The St. George, the Prince George. A. They were left there as far as my knowledge was.

Q. The last time you saw them they were there? A. The last time I saw them they were there.

Q. Was that the last time you saw any papers taken at that place? A. I have seen them several times since that time.

Q. You did not examine the papers in detail at that time?
A. I did.

Q. How long were you at the headquarters? A. Well I guess I was there 72 hours altogether before I left.

Q. And you checked up the papers you took at that time? A. The majority of them, yes.

Q. Were they photographed there? A. Not at the Prince George Hotel.

Q. Where where they photographed? A. Well, we had some, some were photographed—

Q. Were you present when any were photographed? A. Yes.

Q. Where? A. No. 212 Broadway.

Q. What place? A. The Recto-Print Company.

Q. Who was with you? A. Some State troopers.

Q. Name them. A. Well, I have to make application to the State police to get the names of the men assigned on that particular day.

Q. You don't know the men? A. I know quite a few.

Q. Name any who were there? A. McGowan was one; I also think a man named Hepburn.

Q. Who took them down there to be photographed? A. I think they were sent down by the Legislative Committee, by State troopers.

Q. You personally do not know how they got there? A. They were taken by State troopers.

Q. Were you with them? A. On some occasions.

Q. You were there several times then? A. I was there several times.

Q. Did you see the papers delivered in the Prince George?

A. I did not see them delivered right at the Prince George.

Q. When you got there—? A. They were there.

Q. That was a day or two after the raid? A. No.

Q. How soon after? A. The raid took place in the afternoon; I suggest about 10 or 11 or 12 o'clock that night, maybe 10 that night.

Q. Did I misunderstand you when you said before it was the next day? A. You asked me when was the next time I saw them. The next time was at the Joint Legislative headquarters at the Prince George.

Q. Did you say the next day? A. I don't think I did.

Q. If you did it was a mistake? A. If I did, it was a mistake.

Q. Where did you go after you left the papers at the Soviet headquarters? A. After I left the Soviet headquarters?

Q. Yes, where did you go then? A. I went out to get something to eat and then to the Prince George.

Q. Someone with you? A. I couldn't tell you.

Q. When you went to the Prince George, what did you do? A. I started examining the papers.

Q. You had been examining 72 hours before that? A. You asked me the day of the raid.

Q. How long were you in the office of the Soviet Bureau? A. I should judge, well about, the raid was taking place—

Q. How long? I don't know whether you took ten carloads or a basketfull. A. Well, I can give you approximately, I couldn't tell you to the exact minute.

Q. Cut out the minute and the second. How long? A. Well, maybe around in the neighborhood of an hour or an hour and a quarter.

Q. You went in there and gathered up everything in reach and wrapped it up? A. I went to one filing cabinet and some other filing cabinets where there was correspondence and then gathered up other things there also, and I helped in the gathering up.

Q. How many were there, half a dozen? A. I guess there were about half a dozen.

Q. And they gathered them up with strings around them? A. To the best of my knowledge, yes.

Q. Bundled them? A. Yes.

Q. And then handed them over to someone else? A. Yes.

Q. And then you went to lunch? A. Yes.

Q. What time was that? A. Late in the afternoon.

Q. Four o'clock, three o'clock, or two o'clock? A. I couldn't tell you. I know it was in the afternoon.

Q. Can you give me your best guess between one o'clock and nine in the evening? A. I should say it was around three o'clock when the thing was started.

Q. Then from three to eleven you do not know where those documents were, of your own knowledge? A. Well, I don't think the raid was completed until about half-past four, as near as I can get to it.

Q. Well, we will string it along now from 1 to 4:30. Could it have been 5:30? A. I don't think so.

Q. Then from 4:30 to 11 you do not know where those documents were of your own knowledge? A. I got in the Prince George Hotel in the neighborhood of —

Q. How many photographic copies were made of these instruments? A. Of this particular one?

Q. No, generally. You photographed a great many, did you not? A. Why, yes.

Q. There were a number of photographic copies taken? A. I guess there were.

Q. Do you know to whom they were distributed and to whom they were sent? A. No.

Q. Were photographs taken of documents with reference to trade and the sale of goods? A. I don't know.

Q. You did not inspect them? A. If they were photographed, if they were ordered to be photographed, I guess they were.

Q. You photographed everything, did you not? A. I wouldn't say everything.

Q. Well, everything that your eye lighted on? A. Anything that was of any interest, I should say.

Q. Handbills? A. (No answer).

Q. Were all the papers in English? A. No, I don't believe they were.

Q. What languages, do you know? A. Well, I only read the English language.

Q. Do you know who translated them there? A. I think they were translated by a gentleman named Starr.

Q. Starr? A. Yes.

Q. Do you know his first name? A. George, I think his first name is.

Q. Were they not translated by Dr. Felix Wexler, of Columbia University? A. I cannot answer that question.

Mr. Sutherland.—That has no reference to this question.

The Chairman.—It is pretty broad, Mr. Stedman.

By Mr. Stedman:

Q. What documents were photographed at the time that the Gerber letter was photographed, if you know? A. I couldn't tell you right off-hand.

Q. Do you know a party named R. N. Nathan? A. No, I don't, to the best of my knowledge. I may know somebody named Nathan, and may not know him.

Q. R. N. Nathan? A. Not to the best of my knowledge, I don't.

Q. You do not pretend to know all the persons who were there at the time you got to the Prince George? A. No.

Q. He may have been there and you not know his name? A. Possibly, because I was only there a short time, in the employ.

Q. Were any papers taken away that were not photographed? A. You mean taken from the Soviet Bureau?

Q. Yes? A. There might have been.

By Mr. Sutherland:

Q. Do you know of your own knowledge? A. Not to my own knowledge.

By Mr. Stedman:

Q. Do you know whether any were taken from the Prince George Hotel, that were not photographed?

Mr. Sutherland.—Of your own knowledge.

The Witness.—I do not know.

By Mr. Stedman:

Q. Who had an inventory of all these documents? Can you name the person? A. I should imagine —

Mr. Sutherland.—Do not imagine anything; speak of your own knowledge.

The Witness.—I don't know.

By Mr. Stedman:

Q. Do you know who made an inventory of any of these documents? A. I don't know.

Q. Did you make any inventory? A. If you want the inventory. I imagine that that magistrate who issued that search warrant has it.

Q. Did you see anybody make an inventory of the material taken from the Soviet Bureau? A. To the best of my knowledge and belief, I don't know.

Q. Did you see one taken at any place or at any time? A. That is the same question.

Q. No, I said before, "Soviet Bureau." The next time you saw them was at the Prince George? A. Yes.

Q. Did any one there have a list or inventory of these documents? A. Well, to the best of my knowledge, I don't know.

Q. Did you take the photographs back? A. Some of them, yes.

Q. Who took the others, do you know? A. They were taken back by the State troopers.

Q. Who was the magistrate who issued this warrant? A. I take it the peace officer who serves the warrants.

Q. Who was the peace officer who served the warrant? A. That would appear on the warrant. I don't know.

Q. Did you go to any magistrate's office or court room? A. Did I?

Q. Yes? A. When?

Q. At any time? A. You mean in this particular action?

Q. I am referring to these documents, surely. A. No.

Q. With reference to these documents, you never saw them in the magistrate's office or in a courtroom, and you were never there? A. To the best of my knowledge and belief I do not recollect ever seeing them in the magistrate's office.

Q. You remember an occasion of that kind — if the magistrate was there — the magistrate's office was not in the Soviet Bureau? A. I would not expect to find it there.

Q. And it was not at the Prince George? A. No.

Q. And it was not at the photographer's? A. No.

Q. Did you see him at any other place? A. No, do you mean that particular date?

Q. Oh, no; not that particular date, from the time you saw him in the Soviet Bureau up to this date? A. Did I ever see those papers anywhere else?

Q. Yes. A. I think I seen them — I think they were offered in evidence at the Lusk Committee, or something like that, hearing.

Q. What is that? A. I think they were offered as evidence at the Lusk hearing.

Q. Very well. Then the only place you saw them was at the Soviet, Prince George, the photographer's, and the Lusk Committee? A. And here.

Q. And you never saw them at any magistrate's office? A. To the best of my knowledge and belief I did not. It may be, but I am not positive.

Q. Was anyone who was a member of the Lusk Committee present at the Soviet Bureau? A. Well, there might have been.

Q. Name them, if you recall. A. Well, you see, I did not know all the members at that time.

Q. Do you now recall any? A. I could not recall just now, no, sir.

Q. You know them now? A. Yes, sir.

Q. Do you now recall that you saw any there? A. I could not recall offhand.

Q. Did you see any at the Prince George? A. I told you who I saw at the Prince George.

Q. Any members of the Lusk Committee? A. They were Associates of the Lusk Committee.

Q. Did you see any members of the Legislative Committee—

Mr. Sutherland.—It seems to me that this witness has been fully cross-examined with respect to these documents.

Mr. Stedman.—Very well.

Mr. Sutherland.—Before Mr. Gerber is recalled, I would like to offer in evidence the New York Call of Thursday, July 24, 1919, for the purpose of showing that in that particular number the Moscow Manifesto of March 2nd last, which was read in evidence early in the hearing, was published in full in The New York Call, and I wish to read at this time, not the Manifesto itself, which already has been read, but about 100 words by the way of introduction to it, published in that issue.

(The New York Call of Thursday, July 24th, 1919, was received and marked Exhibit No. 97 in evidence of this date.)

Mr. Stedman.—I want to object so it will appear we are not consenting to its relevancy.

The Chairman.—Objection overruled.

Mr. Sutherland.—It is headed, "Manifesto of the Moscow International." (Reading):

"The following is a full copy of the Manifesto adopted by the Moscow, or Communist, International Congress, held March 2, last. Much interest and no little mystery have shrouded the history of the Congress. Called to organize a Third International, the blockade and denial of passports made it impossible for the Russian Communist Party (the Bolsheviki), under whose auspices it was held, to hold the Congress altogether in the open.

"The Russian Socialists have adopted the old name of the time of Marx and Engels, that of Communists, to distinguish

themselves from those Socialists of Europe who supported the Imperialism of their governments during the war. The use of the name is somewhat confusing, inasmuch as the word has another and a distinct meaning in English; but, wherever it is used, it means revolutionary Socialists as distinguished from social patriots and mere parliamentary Socialists.

"It is known that the invitation to send delegates did not specifically include the Socialist Party of the United States by name, but called for delegates from the Socialist Labor Party, the Socialist Propaganda League, the I. W. W., the W. I. I. U., and 'those sections of the Socialist Party whose sentiments are expressed by Debs.'

"It is known that the information on the Socialist conditions in the United States was supplied to the Bolsheviki of Russia by Boris Reinstein, a member of the Socialist Labor Party, and one S. J. Rutgers, a Dutch Communist who resided in America for a few years, and who organized the now defunct Socialist Propaganda League. He is now in Moscow.

"It is believed that Rutgers and Reinstein were seated as representatives of the United States, with voice and no vote.

"The authors of the Manifesto are Charles Rkowsky, Nicolai Lenine, G. Zinovieff, Leon Trotzky and Fritz Platten. The Congress was, necessarily, composed largely of Russian Bolsheviki and Syndicalists, but it is said that there were some Swiss, Italian and French Socialists there, who happened to be in Russia at the time.

"The Manifesto, here given in Full, hitherto has not been printed in its entirety in America."

Mr. Stedman.—And you are offering the resolution that appears there, or the manifesto?

Mr. Sutherland.—I am offering the paper to show that on that date the Moscow manifesto was published in the Call with that preamble which I have just read.

Mr. Stedman.—I insist if you put in the preamble that you put in what follows the preamble.

Mr. Sutherland.—I do not want it reprinted in the record.

Mr. Stedman.—It is not reprinted.

Mr. Sutherland.—Whatever is there I offer, Mr. Chairman.

JULIUS GERBER, recalled, testified as follows:

By Mr. Sutherland:

Q. Is Mr. Martens a member of the Socialist Party of America?

A. I cannot say, not to my own knowledge; he may be.

Q. Do you know whether he ever took out a card —

Mr. Stedman.— It is understood the stenographer copies that Manifesto that appears there, into the record.

The Chairman.— Yes.

(The Manifesto appearing in the New York Call, Exhibit No. 97 of this date, issue of Thursday, July 24, 1919, is incorporated in the record at the end of this day's proceeding.)

The Witness.— No, I do not.

By Mr. Sutherland:

Q. Would there be any way of finding out if Mr. Martens is or has been a member of any local branch here? A. If I knew where Mr. Martens lives, perhaps we could find out. I do not know where he resides, whether in the Bronx, whether Jersey or anywhere else.

Q. There has been an address given here in one of these documents. A. That was 299 Broadway.

Q. No. A. That was the office address.

Q. 2050 on Fifth avenue, something like that? A. That was Mr. Nuorteva; yes, he was a member of the Socialist Party.

Q. What position did Mr. Victor L. Berger hold in the Socialist Party? A. He was a member of the National Executive Committee for a number of years.

Q. For how long? A. Well, to my knowledge, from 1900 up to 1919.

Q. By way, to digress a moment, we have been informed by Mr. Lee that the Socialist Party of America is the successor of the Socialist Labor party. That is correct, is it, Mr. Gerber? A. Well, it is not the successor exactly. We split off from the Socialist Labor Party in 1899 and organized the Socialist Party.

Q. Is there a Socialist Labor Party now? A. It is still in existence, sir.

Q. Is there in New York State a Socialist Labor Party? A. To my knowledge, yes.

Q. And functioning as a party, and has a place on the ballot column? A. It is not an official party that has a place on the ballot, but they generally manage to get signatures and put candidates on the ballot.

Q. Did they have headquarters, offices and an organization?

A. They have a headquarters somewhere in New York, in Manhattan.

Q. Are you able to tell us where it is? A. I am not.

Q. Do you know any of the present officers of that party? A. I do not.

Q. What has become of the Social Democratic Party? A. That is the Socialist party.

Q. That is the Socialist party? A. Yes.

Q. Then, has the Social Democratic Party ceased to exist?
A. By order of the Court of Appeals of the State of New York, the Social Democratic Party ceased to exist under that name and changed its name to Socialist party.

Q. When did that occur? Give us some lead on that? A. I think it was 1904.

Q. Do you remember the title of the proceedings? A. The title of the proceedings was, Ex-Governor Hill against the Social Democratic Party, objecting to using the word "Democratic" in it on account of its being part of an existing political party.

Q. That was in 1904? A. I think in 1904.

Q. Now to recur to these names again. What was the position of Adolph Germer? How long was he the General Secretary of the party? A. Germer was elected National Secretary of the Socialist party in 1915.

Q. Yes, and he held the position ——? A. Until September or October, 1919.

Q. Yes. What position did St. John Tucker hold in the party?
A. No official position whatsoever.

Q. Wasn't he recognized as one of the leaders of the Socialist party? A. No.

Q. Didn't he hold some editorial position? A. Not to my knowledge.

Q. Had he no relation to your official publications? A. Not that I know of, sir.

Q. Hasn't he been invited to lecture at the Rand School?
A. Oh, yes; he lectured and perhaps wrote some articles, but never held any official position.

Q. Yes. How about J. Lewis Engdahl? A. Engdahl was the editor of the former American Socialist.

Q. Didn't he have some relation now to the organization at Chicago; wasn't he connected with the publicity department?

Mr. Stedman.—Who are you inquiring about?

The Witness.— Engdahl.

Mr. Stedman.— Would you permit me to make a statement?

Mr. Sutherland.— I would be very glad to get the facts.

Mr. Stedman.— Lewis Engdahl for about six weeks in 1917 was sending out literature from the publication department, and during a period of ten days at which time Mr. Engdahl, Mr. Hillquit and the committee were calling in Washington on the Attorney-General to ascertain the rights of the editor, Mr. Engdahl did edit the American Socialist. That is the only connection he ever had.

By Mr. Sutherland:

Q. Mr. William Kruse, what was his relation? A. Secretary of the Young Peoples' party.

Q. That is a recognized department —— ? A. Recognized department of the Socialist party.

Q. And his offices were the same as those of the general officers in Chicago? A. Why subsidiary to the Secretary's office.

Q. But it was part of the general? A. Of the organization.

Q. One of the departments? A. Yes, sir.

Q. Recognized and functioning as part of the general machinery of the Socialist party? A. The Young Peoples' Socialist League.

Q. Yes. I want to ask you about the proceedings, Mr. Gerber, between your paper, The New York Call or the Workingmen's Co-operative Publishing Association, and the Postmaster-General. There was a time, was there, when the New York Call was forbidden the use of the mails? A. Still is, to my understanding.

Mr. Block.— You want the facts. I think I am perhaps more thoroughly conversant with this fact. The New York Call has never been forbidden the use of the mails. It is simply deprived by the Postmaster-General of the second-class mailing privilege. It is nevertheless circulated through the first and third class, the postmaster evidently considering it seditious for second-class and not for first and third class mail.

By Mr. Sutherland:

Q. Now, Mr. Gerber, is that your understanding of the matter?
A. That is correct.

Q. You made various efforts, did you not, to have your privileges restored? A. We did through Mr. Block as our president and attorney.

Q. Yes, and you were accorded hearings at various times by the postmaster-general, were you not? A. I haven't paid very much attention to that office. I am busy otherwise. That is practically all left in the hands of Mr. Block.

Q. Well Mr. Block took with him Mr. Wilcox or yourself? A. I never was in Washington.

Q. Did you make affidavits which were read in those proceedings? A. I made affidavits as secretary of the Association.

By Mr. Sutherland:

Q. And those affidavits were read in an effort to restore to The Call the full mailing privileges? A. Second-class mailing privileges.

Q. Very well. We will call it that. Now, the reason assigned by the Postmaster-General for denying to The Call the privilege of second-class mail —

Mr. Stedman.— I am going to object.

Mr. Sutherland.— Can I not finish the question? Read the question.

(Question read by reporter.)

By Mr. Sutherland:

Q. Was that the paper that was considered by him to be publishing seditious matter with regard to the government and obstructing the course of the government in the war; is not that true?

Mr. Stedman.— I am objecting to this on the ground that the Postmaster-General's opinion would in no way prove a qualification or disqualification on the part of the members here, and to meet that it would be necessary for us to read into this record a meeting where even the Attorney-General for the Department of Justice and Mr. Burleson had not agreed upon that subject. Mr. Darrow, Frank Walsh, Hilquitt, Stedman and others had that subject up, representing a dozen papers in Washington, and at that time the Attorney-General, for the Post Office Department, and Judge Herron, of the Department of Justice, had not agreed. Now, why should we go into the subject here of a disagreement

over a legal proposition, where it was by no means unanimous, to determine whether or not the members elected to this Assembly are qualified?

Mr. Sutherland.— Mr. Chairman, we are just trying to show that the Government official, who had jurisdiction in the premises — the Postmaster-General — upon a hearing to which the Call was invited, and where affidavits were read and arguments made, decided, in the course of his official duties, that the Call was a paper which, because of its utterances in opposition to the war, did not deserve the privilege of circulation as second-class mail, and it was excluded for that reason.

Mr. Stedman.— That it was non-mailable under the Espionage Act. Supposing he had decided that; supposing that was his opinion?

Mr. Sutherland.— And, Mr. Chairman, it is pertinent to say in that connection that part of the ground taken by the Postmaster-General against the Call was the publication of speeches by Solomon, one of these Assemblyman.

The Chairman.— Well, if it shows that, I will allow it.

Mr. Sutherland.— It is in the record here. Now, in order to bring that to the attention of the committee in proper form, I desire to ask that the committee have printed for its inspection and for the use of the Assembly, the answer of the Postmaster-General, which contains all of the information as to those proceedings, and as to the reasons why the document, or the paper, was excluded from second-class mailing privileges. We would like to have it printed as one of the documents, similar to the proclamation of the Secretary of State, Mr. Chairman.

Mr. Stedman.— I am objecting to it because an executive's views upon the propriety or impropriety —

The Chairman.— I will admit it.

Mr. Block.— Mr. Chairman, if that request is granted, I will ask that, at the same time, a copy of the petition, to which this answer is made, shall also be printed.

Mr. Sutherland.— We have no objection to that.

The Chairman.— I think you men are getting into pretty deep water on that.

Mr. Stedman.— I know we are. Now, we are getting into the testimony of Frank Walsh and Darrow and the entire commission.

Assemblyman Evans.— Is that particular speech of Mr. Solomon's in the record? Let us have his speech.

The Chairman.— As between four or five of you trying to tell me what to do, I will take my own view. Now, the petition and the answer are admitted.

Assemblyman Evans.— I dissent from that. I do not think the opinion of anybody is conclusive.

Assemblyman Bloch.— I also dissent.

Mr. Sutherland.— We will have the answer marked and the petition may be supplied as soon as it comes.

We also offer in evidence and ask to have printed the record in the Victor L. Berger case, in order that the committee may have the benefit of the discussions and arguments set forth there for his exclusion. We think they are pertinent here.

(Answer of Postmaster-General, in re U. S. of America vs. Albert S. Burleson, received in evidence and marked Exhibit No. 98.)

Mr. Block.— Mr. Chairman, in connection with the petition and answer in the proceeding involving the New York Call second-class mailing rights, I believe there is a little confusion. The judge stated that Postmaster-General had stated, had made a decision, barring the Call from the second-class mail, and offered this answer, giving the impression that this answer and petition were the foundation on which the Postmaster-General acted. Now, to correct that impression, I would like to say that there is a proceeding now pending in the Supreme Court for the District of Columbia, instituted by the Workingmen's Cooperative Publishing Association, publishers and owners of the Call, against Postmaster-General Burleson, for a writ of mandamus to compel him to admit the Call to the second-class mail. That proceeding is now pending, and has not yet been determined.

Mr. Sutherland.— What is the wish of the committee as to the printing of that congressional report? We think as a matter of evidence it would be a valuable document for the use of the Assembly.

Mr. Stedman.—Of course, Mr. Chairman, if that is competent, then Berger's speech is.

The Chairman.—No, I will rule it out.

By Mr. Sutherland:

Q. We would like to know what the relation between the Socialist party and the foreign language branches are. Just explain that to the committee? A. The relations of the party with the foreign branches is as follows: Nationally, the foreign branches constitute, if there are sufficient of them, a so-called federation. They are entitled to elect a secretary, who is then employed in a national office, and who transacts the business for the Federation as a go-between, so to speak, between the national organization of the Socialist party and the federations. In all matters concerning the federations, the federations are autonomous; they are not bound by the strict rules of the party as far as their internal affairs are concerned. They can publish books; they can publish many opinions as they see fit, unless the attention of the national organization is called to the fact that those books or publications or opinions are in violation of the party platform, or party constitution, or party principles.

Mr. Stedman.—Mr. Chairman, I am objecting to this because the constitution of the organization sets forth the position of the federation. It has all been read.

The Chairman.—I cannot agree with you on that. I read that carefully, and there was a matter of doubt in my mind as to exactly what the functions of these groups were.

Mr. Stedman.—I will show you one mistake: He says they can elect the secretary. They may or may not. That is optional with the Board, as to whether they hire one.

The Chairman.—Proceed.

By Mr. Sutherland:

Q. Mr. Gerber, is there anything you wish to correct in your statement? A. To my knowledge and understanding of the situation, the Federation elect their secretary, and unless the secretary is, for reasons, objectionable to the executive committee, why he is the secretary of the federation. In all the internal affairs of the Federation, the Federation is autonomous. They can carry

on their work without interference from the national organization. Similarly, the same thing works out in the respective branches of the county organization. We do not interfere with the work of the Finns, or anybody else, unless our attention is called to the fact that they are in some way or other violating the platforms or principles of the Socialist party. In that case the party proceeds and, as many of you do know, we put out some last summer.

Q. Who appoints the translator secretary? A. The membership of the Federation, the membership of that Federation.

Q. They appoint their translator secretary? A. It varies in many of the Federations. In some of them they elect them by referendum vote; in others, by convention.

Q. Let me ask you this: When a man desires to join the Socialist party of America, and he naturally would go into one of the foreign-language groups, does he not always sign an application card, on which is printed the statements or pledge obtaining in your national and state and local constitutions? A. I can answer as far as New York County is concerned. In New York County they have to. In New York County they do. I understand in other counties they do not.

Q. Now, isn't it the requirement of your constitution that every man, whether he is a Finn or a Russian or a German or a Frenchman, or an Italian or an American, on joining the Socialist Party of America must sign an application containing the words that we have in evidence? A. The constitution provides that every applicant must sign that particular application.

Q. Now then, a man cannot join one of these foreign-language departments constitutionally and legally unless he does sign one of these cards? A. That is correct.

Q. Now, the proportion of alien members, of the dues-paying members of the foreign department, foreign-language branches, is much more, isn't it, than in the English-speaking? A. No, it is not.

Q. Do you keep in any way as an official record, aside from the cards themselves, anything in the nature of a summarization of the number of aliens and the number of citizens in your various branches? A. I do not.

Q. Is the Jewish Federation still a branch of the Socialist Party of America? A. It is.

Q. In good standing? A. In good standing.

Q. Never has been expelled? A. It has not.

Q. Suspended? A. No, they suspended a good portion of their own membership, but the party itself, the Federation as such is in good standing.

By The Chairman:

Q. Have you one of those application cards there? A. No, I have not; the two application cards we had here are on file. Yes, I have one (indicating).

Q. Let me see it. A. (Card handed to the Chairman).

By Mr. Sutherland:

Q. That is the official bulletin of the September, 1919, Convention? A. That is the official bulletin of the Socialist party.

Mr. Sutherland.—Mark that for identification.

(Bulletin marked Exhibit 99 for identification).

The Witness.—I brought this card at the request of Mr. Berger's assistant.

Q. You were present at the convention in Chicago, weren't you, when this proclamation and manifesto was adopted? A. If I look at the proclamation I might tell you.

Q. Look at it. A. I was at the Chicago convention, but whether this is the manifesto —

Q. The manifesto was unanimously adopted, wasn't it? A. Yes.

Q. No dissenting vote at all? A. (No answer).

Mr. Sutherland.—Mr. Chairman, we ask that there go into the record the minority report on the war.

The Chairman.—What is that?

Mr. Sutherland.—We ask to have put into the record the minority report submitted to the April, 1917, convention by Mr. Spargo.

Mr. Stedman.—Mr. Judge, will you take another word besides "Minority"? Call it the Spargo report. The reason I do that is, if you will turn to page 1162 you will find the minority report; so we will not confuse those.

Mr. Sutherland.—I think perhaps the Committee ought to have both of the reports which we offer and which were adopted

by the convention. The Spargo report is very significant by way of contrast because Mr. Spargo presented to that convention a report containing, for instance, this provision: "Now that the war is an accomplished fact, for the reasons stated we hold that it is every Socialist's duty to make whatever sacrifices we may have to make to enable our nation to win the war as speedily as possible." That report only got five or six votes.

The Chairman.—There didn't any of them get adopted.

Mr. Sutherland.—Yes, the majority report was adopted, which has been read in evidence. These minority reports were semi-patriotic, at least. They recognized that the Socialist has got some duty to his country, and it is a comparison between the two which makes the true light shine on the report that was actually adopted.

Mr. Stedman.—The only possible relevancy is to show that the Socialists did not agree.

The Chairman.—I guess that is pretty well proven anyway.

Mr. Sutherland.—We have no desire to press anything on the Committee that your honor feels will not be helpful.

The Chairman.—You get us so confused.

By Mr. Sutherland:

Q. You were present in the 1917 convention, were you? A. I was.

The Chairman.—You have got a minority report following that?

Mr. Stedman.—Yes, two; four pages.

Mr. Sutherland.—The majority report was adopted by the convention.

Mr. Stedman.—You have read both the platform and the St. Louis manifesto. Those have both been read in evidence.

(Discussion off the record.)

Mr. Sutherland.—I think we ought to have the reports.

The Chairman.—If you have got the others in we will put that in.

Mr. Sutherland.—Let it be considered then that the Spargo report at page 1155, and the minority report so-called, at page 1162, are in evidence.

(The excerpts referred to were considered in evidence and marked Exhibits Nos. 103 and 104, and are copied in full in the record at the end of this day's proceedings.)

Mr. Sutherland.—I don't know that we want to take time to read them if the Committee have them before the Committee and they are printed in the record. That is enough to show the contrast between the two positions.

By Mr. Sutherland:

Q. Is it not a fact, Mr. Gerber, that at the convention of 1917 the language "our country," or the words "our country," in some of these minority reports aroused a heated discussion, and that the main body of people took the position that Socialists should not speak of the country as "my country," but that the "world is my country?" A. I don't remember such an occurrence.

Mr. Stedman.—I object to it.

The Witness.—I remember Mr. Hillquit making a speech showing we do have a country.

Mr. Sutherland.—That is all, Mr. Chairman.

The Chairman.—It is in evidence, is it, that the Spargo and minority report were rejected?

By Mr. Sutherland:

Q. That is so? A. Yes, the Spargo report was rejected.

Q. How many votes did Spargo get? A. I do not remember.

Q. Not over half a dozen? A. He got over half a dozen, but he did not get enough.

Q. What vote did the minority report get? A. What, the Bodine report?

Q. Yes. A. It got less.

Q. Less than the Spargo? A. Yes, sir, and many of us signed the Spargo report for the purpose of submitting it to the members to give the membership a chance to vote.

Q. Now, Mr. Gerber, in this Berger record, in the Congressional report, there is a statement that the Spargo report only received five votes, including his own, five all told. A. Well, the record may say so. Maybe it is correct. I do not remember exactly the vote, but I do remember one-third of the delegates signed the Spargo report to be submitted to a referendum vote.

Q. One-third of the entire convention? A. One-third of the entire convention, to be submitted to a referendum vote. It requires one-third of the delegates.

Q. Were there three reports that were submitted? A. No, only two reports. The Spargo report was then known as the minority report, and a majority report.

Q. Well now, there were three reports? A. Submitted to the convention.

Q. Now, Spargo signed a report,—nobody signed one with him? A. Why yes, there were several others.

Q. There was a minority report signed by three people, according to the record that we just put in? A. If you will permit me, Judge, there was a majority report of the Committee which was the majority report of the convention; there was a minority report of the Committee signed by, I think, two or three members of the Committee.

Q. Let us be correct about it. A. That is the Bodine report. I think there were three, and then there was the Spargo report which I think was signed by Spargo. I do not know whether Benson signed it or not, although Benson was further—

Q. Spargo was the only one that signed the Spargo report? A. When the vote was taken at the convention the majority report was adopted. The Bodine report was defeated, and the Spargo report was defeated, and then one-third of the delegates signed the Spargo report for the purpose of submitting it to the membership.

Q. What did the members do —

Mr. Stedman.—We might as well have it straight. He is in error. What they did is this, if I may refresh your recollection, they drew another platform which was a compromise between Bodine and Spargo, and that was the one that was signed and went out to the members as a minority report.

The Witness.—Not the original Spargo report, but another report signed by Spargo went out.

Mr. Sutherland.—Now, can we have a copy of that one that went out to the members?

Mr. Stedman.— I think the year book has it.

Q. Now, Mr. Gerber, isn't it true that a million copies of the proclamation and war program were printed and distributed in pamphlet form throughout the country during the period from April to October, 1917? A. I cannot say that it is so or not. I haven't control over the national office.

Q. You know, don't you, that that war program — A. Was distributed.

Q. Was very widely distributed? A. Yes, I know that.

Q. It got to the uttermost man in your organization? A. I do not know whether it did or not. I know it was printed and distributed, but as to how many I do not know. I have no control over the national office.

Mr. Sutherland.— I call the attention of the Committee to the Congressional report of the Berger case, on page 5: "This proclamation and war program which was signed by Victor L. Berger was published heretofore in the Milwaukee Leader and the American Socialist, and printed and distributed in pamphlet form throughout the county during the period from April to October, 1917, to the extent of over a million copies."

Q. You would not doubt the correctness of that, Mr. Gerber? A. I do not know. How can I say anything I do not know. I always admit anything I know, but I do not know anything I do not know.

Q. I am only asking for your information on that subject. A. I know we distributed —

Mr. Stedman.— I think there is no question that that is true. I think it may have been September or October.

Q. Do you know whether this war declaration or war platform of the Socialist Party, the resolution that was adopted in the platform, was in general circulation locally in New York, Brooklyn and Bronx? A. It was in New York.

Q. Down to late in the fall of the year 1917? A. Yes, we used it quite extensively as a campaign document, and we got 155,000 votes.

Q. You used that as a campaign document throughout the vicinity of New York city in the fall of 1917? A. Yes, sir.

Q. That would be in October and early November? A. Yes, all through the campaign up to election day.

Q. Gave it general circulation? A. Yes, sir.

Q. And tried to get it into the hands of every person? A. That we could possibly reach.

Q. That would yield to the reason and persuasion stated in that document? A. We gave it out as we gave out every other document.

Mr. Stedman.— Now, I can clear you up, Judge Sutherland. Neither of the minority parties received the required number of fifty votes. They could not be submitted to the membership. Thereupon a statement was drawn up by those not in accord with the declarations in the majority report, and having obtained the required number of signatures of delegates, fifty, was sent forth with the referendum as a substitute for the majority report. That minority report is as follows:

Mr. Sutherland.— Put it in evidence.

Mr. Stedman.— And the majority report was adopted.

Mr. Sutherland.— Subject to correction we are willing to have that marked as an exhibit.

(The booklet referred to was marked Exhibit 100.)

By Mr. Stedman:

Q. I refer now to the subject I called to your attention a moment ago; the secretaries of the Federation are employed, or a portion of their salaries paid, by the executive committee of the national organization, is that so? A. The national executive committee pays part of their salary.

Q. There is nothing obligatory on them to do it? A. I think there is.

Q. Then you had better look at your constitution. A. I think the constitution provides if they have a certain membership the national organization will pay part of their salaries.

Q. That is, if they have 10,000 members the national organization will contribute? A. Yes, sir; if they have below then they will not be bound to pay their salaries.

Q. These foreign-speaking organizations are composed of citizens and non-citizens who speak other than the English language? A. Yes.

Q. And you referred to the Young People's Socialist League; have they a constitution? A. They have.

Q. Have they an organization where they elect delegates? A. Yes, sir, of their own.

Q. They have State organizations? A. Yes, sir, and National organizations.

Q. They hold National conventions? A. They do.

Q. They elect a National secretary? A. They do.

Q. And that National secretary is to act as representing their organization at headquarters? A. At the National office, the same as the secretaries of the federations.

Q. And they are under the control of the National organizations to the extent that they may be disciplined or fraternal relations may be destroyed? A. Yes, sir.

Q. The adult organization has no voice or vote in the Y. P. S. L.? A. None whatsoever.

Q. And the adult organization have no vote nor control in determining the policy or the candidates of members or any control whatsoever over the Y. P. S. L.? A. That is what I stated. The secretary is subject to supervision, that's all.

Q. By the way, the Call has been mentioned; what was your position at the time Perin wrote this article which has been offered from an edition of 1910? A. I was secretary of the association.

Q. Referring to the article, the exhibit number of which I have forgotten, I mean the Call of 1910,— A. I remember it, the American flag article of Richard Perin. I remember that article very well.

Q. In what capacity was Perin acting at that time? A. The editor-in-chief of the Call was sick, and he temporarily acted as editor.

Q. Do you remember any discussion over that article, yes or no? A. I do, yes.

Q. Was his service dispensed with? A. At the following meeting of the board of directors, which was held a day or two after the article appeared—I think that article, if I am not mistaken, appeared on a Tuesday—

Mr. Sutherland.—Saturday, February 10th.

The Witness.—Then the Board met the following Tuesday or Wednesday and his services were dispensed with forthwith.

Mr. Block.—You mean he was discharged?

The Witness.—He was discharged.

By Mr. Stanchfield:

Q. I suppose there were great headlines in the Call announcing that discharge? A. We do not, as a rule, Mr. Stanchfield, wash our dirty linen in public if we can possibly help it.

Mr. Sutherland.—We offer in evidence a ticket dated March 12, 1916.

(The paper referred to was marked Exhibit 101, and is as follows):

"LOCAL NEW YORK, SOCIALIST PARTY.

"Office: 239 East 84th Street.

"Application for Membership in the Socialist Party.

"I, the undersigned, recognizing the class struggle between the capitalist class and the working class, and the necessity of the working class organizing itself into a political party for the purpose of obtaining collective ownership and democratic administration and operation of the collectively used and socially necessary means of production and distribution, hereby apply for membership in the SOCIALIST PARTY. I have no relations (as member or supporter) with any other political party. I am opposed to all political organizations that support and perpetuate the present capitalist profit system, and I am opposed to any form of trading or fusing with any such organizations to prolong that system. In all my political actions while a member of the Socialist Party, I agree to be guided by the constitution and platform of that party.

"Signature of Applicant.

**"Proposed at the meeting of A. D. 28-30,
"Branch Finnish**

" Paste
" Admission
" Stamp
" Here

"J. Lindros Date, Mar. 12, 1916

"Signature of Branch Fin. Sec'y

"Proposed by

" (The reverse of card is as follows) :

" Name Santeri Nuorteva

" Address 1943 Madison Ave. c/o

Admitted

A. D., Branch Finnish By Local

" Occupation Editor

" Of what trades union or other labor organization are you a member, if any?

" Are you a Have you declared your intention to become citizen? a citizen? If so, give date of first papers?

1912

" How long have you lived Were you a member of an existing Socialist or Capitalist Party?

" If so, of which Transferred from Fitchburg? Of which Socialist newspapers or periodicals are you a regular reader?

" This form should be filled out by the Branch Secretary in INK.

" Financial report."

MICHAEL J. DRISCOLL, recalled:

By Mr. Stanchfield:

Q. Did you attend an open air meeting on the corner of East Broadway and Jefferson street on or about July 13, 1914?
A. I did.

Q. And upon that occasion did Mr. Claessens, one of the men under investigation here, make a speech? A. He did.

Q. You are not a stenographer, are you? A. No.

Q. Did you take notes of what he said at that time? A. I took notes on a newspaper and committed some to memory.

Q. Did you afterwards have a memorandum of what he said transcribed by a typewriter? A. I did.

Q. I hand you an exhibit, which will be marked Exhibit 102 for identification.

(Paper marked Exhibit 102 for identification.)

Q. I hand you Exhibit 102 for identification, and ask you whether or not that exhibit was signed by you? A. Yes, sir.

Q. Will you glance it through? (Handing paper to witness.)
A. Yes, sir.

Q. Have you read it through? A. Yes, sir.

Q. Did Mr. Claessens at that time make the remarks in substance that are embodied in that exhibit marked 102 for identification? A. Yes, sir.

Mr. Stanchfield.— I offer it in evidence.

Mr. Stedman.— Well, Mr. Chairman, I think that we would all be better off if he had his entire case reduced to one or two volumes, and then put a witness on the stand and say “is that true,” and save a great amount of time.

The Chairman.— We will take it for what it is worth. When we come to your side, I will make the same ruling.

(Paper marked Exhibit 102.)

Mr. Stedman.— I will read it before examining the witness.

By Mr. Stedman:

Q. Who sent you to this meeting? A. The Joint Legislative Committee of the State of New York.

Q. Did the whole Committee, say, “Go down to the meeting and get something”? A. No, the gentlemen whose names appear at the top.

Q. Who sent you to the meeting? A. Mr. Converse.

Q. What did he tell you? A. To go down and hear what Claessens had to say, and make a few notes for my own information.

Q. Make a few notes for your own information? A. Yes, and report the same back.

Q. Did he say he was curious or looking for information? A. Just as I told you.

Q. That is all he said? A. Yes.

Q. And then you went down there? A. Yes.

Q. What time did you arrive? A. I got there before the meeting started.

Q. How many people were there? A. I would say an average—

Mr. Stanchfield.— Mr. Chairman, would that not be better cross-examination after the Exhibit?

The Chairman.— I suppose so, except counsel asked for cross-examination before he raised his objection. That is sometimes allowed.

Mr. Stedman.— I am objecting because he testified to his recollection.

Mr. Stanchfield.— He is testifying to his recollection.

Mr. Stedman.— I know, but you offered this, did you not ?

Mr. Stanchfield.— Because he wrote it and says it is the substance of what he said upon that occasion.

The Chairman.— Let him read it and then you cross-examine.

The Chairman.— We will let this be read and let him cross-examine. That is the best way.

Mr. Stanchfield.— The speaker used as the subject of his speech —

Mr. Block.— Pardon me, read the whole thing.

Mr. Stanchfield (reading) :

“ NEW YORK, July 14, 1919.

“ From M. J. Driscoll, Special Agent to Chief Clerk C. L. Converse. Subject: Open Air Meeting, East Broadway, & Jefferson Street. Speaker: August Claessen. Attendance about 1000. Collection about \$10.00. 11 copies ‘Revolutionary Age’ at 5 cents, \$5.00; total, \$15.00.

“ The speaker used as the subject of his speech, the Legislative Body in Albany, namely, the work of the Assembly of which he is a member. He spoke on the Reconstruction Committee. He said the idea was to bring the country back to the condition that it was before the war. The only real construction that took place was in Russia and Hungary. This remark was loudly applauded. A resolution was passed at Albany to provide badges, ribbons and medals for returning soldiers. When this was passed I asked if the returning soldiers could show this to the landlords would they grant them a concession in rent. (Laughter by the audience.)

“ Another was passed in Albany to provide wooden legs, arms and glass eyes. The speaker remarked that they should also have included wooden heads. Another was to permit returning soldiers peddlers’ license free. That is nice appreciation for the returning soldiers. I suppose they got so accustomed to dragging guns, cannons after them in that hell over there, that they were already broken in to the push-

ing of a peddler's cart after them. Another bill that was passed to give a mother or wife who lost a son or husband over there to give them a certificate of honor. Oh, they passed some great bills in Albany for the returning soldiers. When the whole world had foresight to see changes; when Russia and Hungary showed what kind of reconstruction the people wanted, that bunch in Albany passed the above laws.

"There were about 650 laws passed and only eight were of any use to the working man."

I ask the Committee's attention to the last few lines because it is the only thing I am interested in.

"But that is as it should be as long as the working class will not organize industrially and politically. What can you expect. We have to organize—we have to organize. I am asked if revolution will cause bloodshed. Revolution never causes bloodshed only when fools oppose it. He then dwelt on various stages of the work of the Assembly in Albany, increases in pay for Assemblymen, borough presidents, surrogates, judges, that were granted and civil service employees could not get an increase of 10 per cent.

"But, as I told the firemen in my district they cannot expect to get anything unless they organize. I mean industrially and politically, and I can see the day when the working people will do that. I have come a few days ago from Winnipeg and I can see the only hope for the workingman is political and industrial organization. (Signed) M. J. Driscoll, Special Agent."

Cross-examination by Mr. Stedman:

Q. Mr. Driscoll, how long was Mr. Claessens speaking? A. I should judge about two hours.

Q. The amount which you have reduced in writing would take about five or ten minutes at the outside? A. That is the substance of what he said.

Q. Did you go for the purpose of taking statements wherein he advised workingmen to organize industrially? A. No, I went for the purpose to take the substance of what he said altogether.

Q. You had no one theory in mind to report? A. No, sir.

Q. You were not directed to take any particular portion? A. No, sir.

Q. Did you report other meetings? A. Of Mr. Claessens' you mean?

By Mr. Stedman:

Q. Any other people? A. I don't think I did.

Q. Mr. Claessens was the only — A. What I mean, they had a stenographer at other meetings where Claessens spoke.

Q. I mean Claessens was the man particularly upon whose trail you were camping? A. No.

Q. Who were the others? A. Various Socialist speakers.

Q. Name some of them. A. I listened to Mr. Waldman, Mr. Solomon, Orr, de Witt, Henry Jaeger and Louis Weitz.

Q. You were going around generally listening to the different Socialists who were speaking? A. Yes.

Q. Especially those who were candidates? A. No.

Q. Did you not listen to some who were not candidates? A. Yes.

Q. Well, who were not candidates? A. I don't think Jaeger was.

Q. Any others? A. Louis Weitz, I don't think, was a candidate.

Q. Yes? A. That is about all, I guess, except those I have mentioned.

Q. Did you notice who was selling *The Revolutionary Age*? A. Why, yes.

Q. Was Claessens selling it? A. No.

Q. There were people in the crowd there selling papers? A. Yes, people in the crowd coming through there, through the audience, selling papers.

Q. They were selling different kinds of papers, were they not? A. That is the only one I recall that night.

Q. Do you not recall whether they were selling copies of *The Call*, or books or pamphlets? A. I do not recollect.

The Chairman.—Is *The Revolutionary Age* in evidence?

Mr. Stanchfield.—I think not, Mr. Chairman.

Mr. Stedman.—I think that is all.

Mr. Stanchfield.—We have one or two copies. We would be very glad to put them in evidence if you will get them out.

The Chairman.—I would like to know — some of the Committeemen asked me if that card that was put in evidence is the usual membership card. I take it that is conceded.

Mr. Stedman.— Mr. Chairman, you have read from the constitution when it was offered, the formal signed pledge.

Assemblyman Everett.— But, there is writing on this card that is important, and I would like to know if it is the usual form of card that is used.

Mr. Stedman.— In this locality? Not nationally, because nationally you have that read in the constitution.

Assemblyman Everett.— I mean the printed part of the card is the regular card of the Socialist organization.

Mr. Stedman.— I cannot tell you that, but I can say this to you, that the regular printed card is in the language as that read to you on the first day.

Mr. Block.— The only official card is the one that conforms with the provision of the national constitution.

ROBERT MACKAY, being duly sworn, testified as follows:

Direct examination by Mr. Stanchfield:

Q. Mr. Mackay, where do you reside? A. Winnipeg.

Q. Winnipeg is located in what province of Canada? A. Manitoba.

Q. How long have you made Winnipeg your home? A. Thirty-nine years, sir.

Q. Speak up as distinctly as you can, will you? A. Yes, sir.

Q. You say for about 39 years? A. Yes, sir.

Q. I take it that is approximately your age? A. I was born in Scotland, but I came out in Canada in my infancy.

Q. And your father lived in Winnipeg? A. Yes, sir.

Q. What approximately is the population of Winnipeg? A. It is estimated at 200,000.

Q. Now, I do not think that I asked you at the time when you were sworn your first name; will you give it to me? A. Robert.

Q. Now, what is your present, and what has been for some time, your occupation in Winnipeg? A. An insurance broker.

Q. And have you quite a large acquaintance in the Province of Manitoba? A. I have, sir.

Q. And your business extends through the Province generally outside of Winnipeg? A. Yes, sir.

Q. Are you at the present time, and have you been during the period since the war, connected with any charitable boards or institutions of an eleemosynary character? A. Yes, I have been.

Q. What? A. I was vice-chairman for the Victory Loan Campaign just closed a few months ago for the Province of Manitoba. I was sent down to Chicago by the Minister of Finance. I was vice-chairman of the Red Cross for the Province of Manitoba during the year of war. I had a Dominion appointment from the Minister of Finance — possibly I will have to explain to you, sir.

Q. No, I do not care to go into it in detail. I just wanted to know if you had functions to perform during that period that brought you in pretty close touch with the citizenry of Winnipeg, and reasonably close with the citizenry of Manitoba? A. Yes, sir.

Q. Were you connected with any of the public institutions in Winnipeg? A. Yes, sir; I am.

Q. What? A. Well, at the present moment I am director of the Children's Hospital.

Q. And did you serve as one of the commissioners that had charge of loaning moneys in behalf of the Canadian government to the returned soldiery? A. Yes, sir.

Q. There were three commissioners, were there not, for that purpose? A. Three commissioners for the Province, sir.

Q. And you handled something upwards of fifteen millions of dollars for them? A. I would say from twelve to fifteen million dollars in the past year.

Q. And you have, have you not, a large personal acquaintance in Winnipeg? A. I claim to have, sir.

Q. Now, came there a time in 1919 when you had a strike in Winnipeg? A. Yes, sir.

Q. When did it begin? A. On the 15th of May.

Q. And for how long a period of time did it continue? A. Approximately six weeks.

Mr. Stedman.— Do I understand the witness was there at this time?

The Witness.— Yes, sir.

Mr. Stanchfield.— I will follow that.

Q. Were you in Winnipeg during the whole of the continuance of that strike? A. With the exception of two days.

Q. Now, are you able to tell us at the time of that strike what classes of people went on strike?

Mr. Stedman.— Mr. Chairman, I am objecting to it; because the speaker refers to Winnipeg won't make it competent to recite conditions that prevailed in Winnipeg. The speaker might or might not know of them. It would not make it nearly as competent as it would to introduce evidence of a situation that a person might know everything about it, but a man makes a speech and refers to China, Buenos Ayres, Calcutta, Capetown, Miami — it would be competent to introduce evidence of persons from each one of those cities. If a person had mentioned, as you say, Buenos Ayres, would it be competent to introduce evidence of the fact that the British troops shot and destroyed some fifteen or eighteen hundred people without notice? Obviously not. If he mentions a city over there where he would say there was a disturbance it would not be competent.

The Chairman.— Well, if he connects up somebody with it, who is connected with this case.

Mr. Stedman.— I assume he is merely offering this because of the statement of the last witness, where he referred in a single word to the town.

The Chairman.— I understood he just said he came from Winnipeg.

Mr. Stanchfield.— He said Claessens said he had just come from Winnipeg, and he could see the only hope laid in industrial action.

Mr. Stedman.— Are we going to produce here a dozen different witnesses as to the conditions in regard to the disagreement in Winnipeg because a man said he came from there, who does not recite the facts wherein he stated that what he saw there represents organization in the industrial and political field? How can that be competent?

The Chairman.— I will allow the question.

Mr. Stanchfield.— I had started to ask you, Mr. McKay, what classes went on strike at that time.

Mr. Stedman.— I might say that Claessens was never in Winnipeg and he did not state it.

The Chairman.— Well, he can testify to that when he wants to.

The Witness.— Do you want to know the classes?

Mr. Stanchfield.— This started first with the fire department?

Mr. Stedman.— Pardon me, is the gentleman reading that (indicating) paper?

The Witness.— No, it is not necessary for me to read it.

Mr. Stanchfield.—Mr. McKay, just keep the book before you.

Mr. Stedman.— The point is if he is reading it I believe we could read it.

Mr. Stanchfield.— It is quite apparent —

Mr. Stedman.— Is he using the memorandum to refresh his recollection?

The Chairman.— He has not done anything yet.

Mr. Stanchfield.— The witness has a perfect right to carry a memorandum for the purpose of refreshing his recollection.

Mr. Stedman.— Certainly, if that is what it is offered for.

Mr. Stanchfield.— It is not offered.

The Chairman.— You may answer the question.

Mr. Stedman.— I would like to know whether this witness is testifying from recollection or testifying from a mind refreshed from a pamphlet containing 20 or 30 or 40 pages, now resting on his knee. That is what I would like to know.

Mr. Stanchfield.— It is at my suggestion he is using that to refresh his recollection; so if there is any criticism to be heaped on anybody's head, I suggest it be heaped upon mine.

The Chairman.— Go on with the examination.

By Mr. Stanchfield:

Q. Now, about the fire department, Mr. McKay? A. The fire department went on strike at 11 o'clock, May 15th.

Q. And approximately how many men, if you know, were there connected with the fire department? A. I could not answer that question, sir. I would say approximately from 400 to 500 men.

Q. Now, have you a civic department there known as the High Pressure Department? A. Yes, sir.

Q. What is the function of that department? A. We have two supplies of water in Winnipeg; one is known as the domestic supply and the other as the high pressure supply. The high pressure is for contingencies of fire; the domestic supply is for household use only.

Q. And did or did not the employees connected with that department go on strike? A. At the high pressure plant, yes.

Q. And do you have, also, a civic department known as the health department? A. Yes, sir.

Q. Were there employees connected with that branch of the city government? A. Yes, sir.

Q. Did they go out upon strike? A. Yes.

Q. At or about the same time? A. The same date.

Q. Now, did you also have a street cleaning department? A. Yes, sir.

Q. With numerous employees? A. Yes, sir.

Q. Could you give me, roughly speaking, the number? A. No, sir; I could not.

Q. Did you also have a scavenger's department? A. Yes, sir.

Q. And a light and power department? A. Yes, sir.

Q. And did each of the three last departments—health, street cleaning and scavenger department, and light and power department—have the necessary employees to operate them? A. Yes, sir.

Q. Did they all go upon strike? A. Yes.

Q. At or about the same time? A. The same hour.

Q. Now, those are all what would be called civic branches of the municipal government? A. Yes, sir.

Q. Now, did you have a telephone system in Winnipeg? A. Yes, sir; a provincial system, a provincial government system.

Q. With ramifications not only through Winnipeg, but the province of Manitoba, and by long-distance connections, through Canada? A. Yes, sir.

Q. Was there also a set of employees connected with the Postal Department? A. Yes, sir, under the Federal Government.

Q. And was there a branch of caretakers and elevator operators? A. Yes, sir.

Q. That were in office buildings and department buildings? A. Yes.

Q. Now, did all the employes of the telephone, the postal caretakers and elevator operators go on a strike? A. Practically all of them.

Q. At about the same time? A. Yes, sir.

Q. Did you also have there an association of wholesale and retail clerks? A. Yes, sir.

Q. Did they go on strike? A. Many of them.

Q. At or about this time? A. The same day.

Q. Was that also true of the carters and deliverers of the stores and railway and express companies? A. Yes, sir.

Q. Did they go on a strike? A. Yes, sir.

Q. Practically all of them? A. Yes.

Q. At or about the same time? A. Yes, sir.

Q. Now, did you have newspapers in Winnipeg? A. We had newspapers for about three days after the strike.

Q. Then what happened? A. They were closed down.

Q. And what with reference to your telegraph and telephone connection with the outside world? A. It was absolutely cut off, sir.

Q. Cut off? A. We had no communication with the outside world after the first week of the strike.

Q. And what sort of an organization took control of the city of Winnipeg? A. Well, it was known as the Citizens' Committee.

Q. Consisting of about how many people? A. It started out with probably 100 and finished up with many, many thousands; I couldn't give an estimate of the number.

Q. Beginning with a nucleus of 100 the formation of this Citizens' Committee gradually increased in number from 100 up to what, in round numbers? A. Certainly not less than ten thousand.

Q. Now, how long before the strike was brought to a conclusion? A. Approximately six weeks.

Q. Now, so far as the striking element was concerned, did they have an organization that assumed to take control of Winnipeg? A. Yes, sir.

Q. What was that organization called? A. They called themselves the Central Strike Committee.

Q. The Central Strike Committee? A. Yes, sir.

Q. Now, in Winnipeg before the strike you had a street car system? A. Yes, sir.

Q. Running through the main avenues and streets of the city of Winnipeg? A. Yes.

Q. Was that service stopped? A. Yes, sir.

Q. So that you were unable to use the cars? A. Yes, sir.

Q. And before the strike occurred were there various delivery wagons that delivered groceries and vegetables and foodstuffs in different portions of the city? A. Yes.

Q. Was that all shut off after the strike? A. Not entirely.

Q. Was it substantially? A. Substantially, yes; others were allowed to operate.

Q. I am coming to that in a few moments. But it was substantially stopped, was it not? A. Substantially; yes, sir.

Q. Now, in the general question that I have asked you about the delivery of foodstuffs and things of that kind that naturally and did in fact, did it not, include milk? A. Yes, sir.

Q. Was that substantially stopped except under certain conditions? A. Yes, sir.

Q. Did you have in Winnipeg cold storage houses and places where food was kept? A. Yes, sir.

Q. And placed for consumption? A. Yes, sir.

Q. And was the right to so preserve food substantially stopped after this strike began? A. Yes, sir; very much so.

Q. You had quite an elaborate telephone system there, did you not? A. Yes, sir.

Q. So that during any hour of the twenty-four, in case of a fire, in case of a burglary, in case of sickness or illness, one could telephone for assistance? A. Yes, sir.

Q. Whether it was the fire department, the police department or a doctor? A. Yes.

Q. Was that stopped when the strike began? A. Absolutely.

Q. And was your right to obtain an adequate supply of water also stopped at the time of the strike? A. We could obtain a domestic supply, sir; in other words, if I lived on the first floor of a building I could get water; if I lived beyond that I couldn't.

Q. After the strike went into effect? A. Yes, sir.

Q. Now, did this so-called strike committee assume to issue permits under and by virtue of the Striking Committee? A. Yes, sir.

Q. That would entitle such person as they saw fit to give milk, to the right to obtain the necessities of life? A. Yes, I could have a glass of milk or lunch if I had a ticket from the Strike Committee. Otherwise I couldn't.

Q. Precisely. I show you what purports to be three illustrations of orders issued by the author of the Strike Committee, and

ask you whether those are correct copies or sample orders issued by this Committee (showing paper to witness). A. Yes, sir; those are correct. I saw the originals.

Q. You saw the originals? A. Yes, sir.

Mr. Stanchfield.— I am going to offer that, if you please, Mr. Chairman, in evidence.

The Chairman.— Received.

(Paper referred to was received in evidence and marked Exhibit No. 105 of this date.)

Mr. Stanchfield.— I read for the information of the Committee these three samples that have been offered in evidence:

“This entitles P. J. Foster to place in cold storage canned eggs. Winnipeg trades and labor council.” Initialed by “G. G. O.” is that?

The Witness.— I don't know; I cannot say as to whose initials those are.

Mr. Stanchfield.— At the bottom of the page: “Mr. Crothers: Would you be pleased to give a sufficient supply of milk to bearer for sick wife.”

By Mr. Stanchfield:

Q. Does that bear the stamp of this strike committee? A. Yes, sir; this man Vietch called himself food comptroller.

Q. H. G. Vietch, whose name appears upon it, was the food commissioner of the strike committee? A. Of the strike committee.

Mr. Stanchfield.— Now, I read still another.

“Winnipeg Trades & Labor Council to the Oil Companies Limited:

“Dear Sir.— Your communication of the 19th instant to hand. It has received attention by the Strike Committee. I am instructed to forward you the decision on the matter of coal oil and gasoline. First that all firemen be supplied with the necessary coal oil to meet their requirements. Second that military police, doctors, health officers and hospital cars must be supplied with the necessary gasoline for professional services. Third, that chauffeurs in the industries which have

permission to operate must have special permit from the Central Strike Committee.

"I am,

"Yours truly,

"Strike Committee."

With the rubber stamp: "Winnipeg Trades & Labor Council," and stamped on it, "Received at Winnipeg Oil Company's office, Monday, May 19, at 1 a. m."

By Mr. Stanchfield:

Q. Now, that strike, you say, continued for practically how long? A. Six weeks.

Q. And did the conditions for quite some time continue as you have outlined here? A. Yes, sir; I have been very mild of course in anything I have said.

Q. Will you describe in your own way the city of Winnipeg as it was for the week or ten days succeeding the strikes? A. I will try, sir; as I have already told you we were without fire protection, without fire protection, without milk, without bread. The restaurants were all closed other than those who carried a card issued by the strike committee which would have to be displayed in their window that they were doing business by special permission of this strike committee. Otherwise they were closed or practically closed. I might better explain the position of our children's hospital. We have from 80 to 90 very small children in that hospital, and of course without milk we couldn't operate beyond 24 or 48 hours. The day of the strike we were without milk and without ice. The lady superintendent came to me and we found it necessary to go to the Trades & Labor Council and ask them and plead with them that we should have milk and ice for our institution. The same thing happened to the general hospital, which is a much larger institution than the children's hospital. I might say that the Brandon Asylum, which houses probably 1,000 patients, was in total darkness; the light was cut off; the water was cut off. And of course we were without telephones and without street car accommodation. We couldn't send any telegrams unless they were censored by this strike committee. I had an actual demonstration of that myself. My partner was on mid-ocean at the time and I knew he would be disturbed about Winnipeg and I wanted to cable him. I found it necessary to go

to General Kitchin who was at the head of the Dominion Militia Department, and he ordered that message passed through; otherwise I couldn't have sent it. We suffered greatly in the hospitals for the want of telephone communication. Children were ill and of course there were no street cars and you had to depend entirely on automobiles or any conveyance possible. If a grocer or butcher attempted to keep his premises open and his delivery wagon was on the street without this card by permission of the strike committee, it would likely be he would likely get into a great deal of trouble.

The streets of Winnipeg were not swept for weeks and weeks and weeks. The garbage cans were filled to capacity. It was very, very hot weather, in the month of May and June. We were fearful of an outbreak of disease. These are the sort of things I want to forget, and try to forget, but I cannot tell you, sir, I cannot paint a picture of the actual condition that existed in Winnipeg for six weeks.

Assemblyman Evans.—Did the police department work?

The Witness.—We had the police department. The men were on the street, but the strike committee openly boasted in their own paper that they were there by their own orders, and that they would call them out at any time. We knew that to be a fact. As an example, our Fire Hall,—every public utility, I might say, was manned by citizens. We found it necessary to convey those citizens to and from the fire halls, the telephones, the pumping stations, by automobile. We had our own commissary department to feed them. We even had our own insurance company to indemnify them in case of accident.

The police were on the streets. The first night of the strike, I think I am safe in saying, that approximately 125 false alarms were sent in, but we still had our police on the street. We found it necessary to organize a patrol system in the city, which was done, and every fire alarm box, and all patrol boxes, were patrolled night and day by citizens. The false alarms were reduced within 48 hours to possibly two or three. The idea being, of course, to wear down the equipment and wear down the boys who were in the police department.

I personally went to see the chief of police and explained the situation to him, and he said he had confidence in the police department, but we told him that unfortunately, we did not, and he

told me that if we put these men on the street he would call out the police, and I might tell you later on they were called out, and we were without police protection.

Q. During this strike? A. Yes, sir.

Q. What was done with reference to the mail service, the receiving of incoming mail or posting outgoing mail? A. There was no use posting mail, sir, because it would not go out, and the incoming mail was accumulating in the postoffice. Of course, the mail carriers went out as the expressmen went out. We did not receive mail, that is just it.

Q. So that for this period of six weeks Winnipeg had an illustration of what the socialists call a general strike? A. That is a very mild term for it, I would say.

Q. Has any one been indicted in connection with it? A. Yes, sir.

Q. How many? A. One up to date.

Q. When I use the expression indicted, has he been tried? A. Yes, sir.

Q. And convicted or acquitted? A. I did not just catch what you say.

Q. What happened to him as a result of the trial? A. He is in the penitentiary now.

Q. Are there others to be prosecuted? A. They are being prosecuted now, sir.

By Mr. Stanchfield:

Q. How many of them? A. I think seven.

Q. And were any of these men that are being prosecuted connected with what is known as the Socialist party there? A. Yes, sir.

Mr. Stanchfield.—You may cross-examine.

Cross-examination by Mr. Stedman:

Q. Do you know what Socialist party that is? A. No, sir.

Q. Do you know what affiliations it has? A. No, sir.

Q. There was no attempt on the part of the men to operate the street cars during the strike, was there? A. No.

Q. Or to operate the telephone system? A. What men?

Q. The men who were on a strike, the men who were affiliated with the trades and labor council? A. No, sir.

Q. They made no attempt to operate industry during that time? A. No, sir.

Q. They made no effort to secure control or ownership of the industries? A. I wouldn't say that.

Q. I mean in a positive way? A. I wouldn't say that.

Q. Tell me any industry they attempted to operate? A. The Canada Bread Company, as an example.

Q. Who are the proprietors of that? A. It is a corporation.

Q. Do you mean the men attempted to operate it despite the protest of the proprietors? A. They put the proprietors on the street. They said they would operate it if it was necessary to feed their own men.

Q. To feed the people? A. No, to feed their own.

Q. I notice you say, "we organized, we citizens." Were the others all Chinese? A. I do not get your point.

Q. I want to know what nationality the others were? You said "we citizens organized"; I want to know who the others were? A. If I said that the others were not citizens—

Mr. Stanchfield.—You made no such statement.

Mr. Stedman.—You did not say that; you simply formed the inference.

Mr. Stanchfield.—It is simply a socialistic bit of camouflage.

Mr. Stedman.—Now that this beautiful wit has subsided,—

The Chairman.—Go on with your examination; proceed.

By Mr. Stedman:

Q. The men who were on strike were citizens there of that community? A. Yes.

Q. And the first body that went on strike were what trade? A. I don't know; they all went on strike at the same time.

Q. Don't you know that one body went on strike first? A. Yes.

Q. What was the name of it? A. The Metal Trades, I think.

Q. Were they assembling in a hall at that time? A. I don't know.

Q. Do you know anything about a meeting in a hall there, a large hall? A. No.

Q. Do you know anything about the shooting of men in a hall there? A. The shooting of men?

Q. Yes; were there any men shot in a hall? A. No.

Q. Were there any men hosed in a hall? A. What hall do you mean?

Q. How large a place is Winnipeg? A. 200,000.

Q. In what hall do the trade and labor assemblies meet? A. They met in two halls that I know of.

Q. Give us the names of them? A. Trades and Labor Temple.

Q. What is the other? A. The Industrial Bureau.

Q. Now, their regular hall was the Trade and Labor Temple, was it not? A. I believe so.

Q. Was there a meeting broken up at any time there when a portion of the men were on strike? A. I don't know.

Q. Did you make any investigation to find out? A. No.

Q. Did you read it in the paper? A. No.

Q. Do you know anything about the reasons for the calling of the general strike? A. No, sir, I don't.

Q. You do not know that there were a group of moulders and others who met in a hall, and that a portion of the citizens went up and broke up their meeting, and one man was pushed out of the window, and one or two killed, and it resulted in the calling of a general strike? A. I made no study of the labor situation. I commenced on the 15th of May.

Q. You do not know the causes which produced the strike which existed in Winnipeg do you? A. No, sir.

Mr. Stedman.— That is all.

Mr. Stanchfield.— That is all.

The Chairman.— Next witness.

By Mr. Stedman:

Q. You did not see Claessens up there, did you? A. Who?

Q. Stand up, Mr. Claessens.

(Mr. Claessens arises as requested.)

Q. You did not see that man up there? (Indicating Mr. Claessens.) A. I never saw the man before.

Mr. Stedman.— He was not there.

The Chairman.— He said he was.

Mr. Stedman.— Oh, no. You mean the other man says that he says he was.

The Chairman.— All right.

JULIUS GERBER, recalled, testified as follows:

Direct Examination by Mr. Sutherland:

Mr. Gerber, did you happen to know Mr. Trotzky when he was in this country? A. Yes, I met him.

Q. He was a member of the American Socialist party, was he not, the Socialist party of America? A. Yes.

Q. And to what local did he belong? A. He belonged to the Russian Branch of the Russian Federation.

Q. Where did he reside at that time? A. Well, that is more than I can answer, Judge.

Q. Was it in Brooklyn, or in New York — Manhattan? A. I never looked it up.

Q. Did he go by the name of Trotzky at that time? A. Well, as far as I am concerned, he was known by the name of Trotzky. I never knew him under any other name.

Q. Did he not have the name by which he was generally known, as Brownstein? A. Why, I only heard of that within the last year or so, that he had another name; that is, that his real name was supposed to be Brownstein.

Q. That is said to be the fact, that his real name is Brownstein? A. That is what I read in the papers.

Q. But you say he was generally known as Trotzky? A. Yes.

Q. How long did you say you knew him personally? A. I met him once.

Q. Well, you have a general knowledge, do you not, of how long he remained in America? A. If I am not mistaken, he was about three months in this country.

Q. Three months? A. Three months; it might have been longer, or may have been less.

Q. Was he not a writer or contributor to some newspaper here for some little period? A. Not to my knowledge.

Q. When was it he was here, about how long ago? A. The first time I met him was, I think, in February or March of 1917.

Q. Nineteen hundred and seventeen? A. Yes.

Q. Do you know what his present position is with regard to the Soviet government of Russia? A. I understand he is Minister of War, or Secretary of War, as you would call it here.

Q. You do not know whether his name is still carried as a member of the locals to which he belonged? A. I know it is not.

Q. How do you know that? A. Because he was a member of New York.

Q. And how did he happen to be dropped, did he resign or withdraw? A. No, he did not resign or withdraw. If he had continued his membership, the whole Russian Federation having been put out of the Socialist party, he would have been put out with them.

Q. Did he stop paying dues? A. Yes, he stopped paying dues as soon as he went back to Russia.

Mr. Sutherland.— I guess that is all.

The Chairman.— Anything further? Proceed.

Mr. Sutherland.— A little more of Mr. Marten's testimony, sir, and we will be able to close.

The Chairman.— Are you going to read all that testimony?

Mr. Sutherland.— No, I will read beginning at page 27.

Mr. Sutherland (Reading).— "By Mr. Stevenson:

"Q. Mr. Martens, you are a member of the Russian Communist Party, are you not? A. Yes, sir.

"Q. And that party is the party which is now in control of the government of Soviet Russia, is it not? A. Yes, sir.

"Q. And Mr. Nicholas Lenine is the premier, is he not? A. Yes, sir.

"Q. And Mr. Leon Trotzky is the minister of war? A. Yes, sir.

"Q. That is the Communist Party has issued a call for what is known as the Third International, is it not? A. Yes, sir.

"Q. And that call was made in the form of a manifesto, was it not? A. Yes, sir.

"Q. And it was signed by Charles Rakovsky, Nicholas Lenine — A. Yes, sir.

"Q. B. Zinoviev, Leon Trotzky, Fritz Platten? A. Yes, sir.

"Mr. Stevenson.— Mr. Chairman, I wish to read from a translation of this manifesto which was published on May 10, 1919, the issue of 'The Revolutionary Age' in Boston.

"The Chairman.— All right, proceed. Is that a translation in English?

"Mr. Stevenson.— Yes, sir.

"The Chairman.— What is the original?

"Mr. Stevenson.— Russian.

"By Mr. Stevenson:

"Q. That is in Russian, isn't it? A. Yes, sir."

Then Mr. Stevenson proceeds with the manifesto which was issued (reading):

"By Mr. Stevenson:

"Q. This manifesto was issued as an appeal to all Communist groups in other countries, was it not? A. Yes, sir.

"Q. Nicholas Lenine has addressed a communication to the American workingman, has he not? A. Yes, as far as **I know.**

"Mr. Stevenson.—Mr. Chairman, I wish to offer in evidence certain parts of 'A Letter to American workingmen,' which is issued by Nicholas Lenine from Moscow August 20, 1918, and I wish to read parts, as follows: "

Mr. Roe.—I object to that.

Mr. Sutherland.—This is what he read to Mr. Martens.

Mr. Roe.—You cannot get a document in evidence that way.

The Chairman.—Are we going to put all the Martens' testimony in?

Mr. Stedman.—They are reading something in and are closing their case.

The Chairman.—Proceed.

Mr. Roe.—My point is there is no proof that is the letter.

The Chairman.—Martens swore it was. I am quite familiar with this record.

Mr. Stedman.—I just read the question: "Nicholas Lenine has addressed a communication to the American workingmen, has he not?"

The Chairman.—Proceed.

Mr. Sutherland.—Mr. Stevenson then read the following:

"A Russian Bolshevik who participated in the Revolution of 1905 and for many years afterwards lived in your country has offered to transmit this letter to you. I have grasped this opportunity joyfully for the revolutionary proletariat of America — in so far as it is the enemy of American imperialism — is destined to perform an important task at this time.

“ The letter goes on to say :

“ Political activity is not as smooth as the pavement of the Nevski Prospect. He is no revolutionist who would have the revolution of the proletariat only under the ‘ condition ’ that it proceed smoothly and in an orderly manner, that guarantees against defeat be given beforehand, that the revolution go forward along the broad, free, straight path to victory, that there shall not be here and there the heaviest sacrifices, that we shall not have to lie in wait in besieged fortresses, shall not have to climb up along the narrowest path, the most impassable, winding, dangerous mountain roads.’

“ And further on it says :

“ In words our accusers ‘ recognize ’ this kind of class struggle, in deeds they revert again and again to the middle-class Utopia of ‘ Class-harmony ’ and the mutual ‘ interdependence ’ of classes upon one another. In reality the class struggle in revolutionary times has always inevitably taken on the form of civil war, and civil war is unthinkable without the worst kind of destruction, without terror and limitations of form of democracy in the interests of the war. One must be a sickly sentimentalist not to be able to see, to understand and appreciate this necessity.”

“ And, further on :

“ Its servants charge us with the use of terroristic methods. Have the English forgotten their 1649, the French their 1793 ? Terror was just and justified when it was employed by the bourgeoisie for its own purposes against feudal domination. But terror becomes criminal when workingmen and poverty stricken peasants dare to use it against the bourgeoisie. Terror was just and justified when it was used to put one exploiting minority in the place of another. But terror becomes horrible and criminal when it is used to abolish all exploiting minorities, when it is employed in the cause of the actual majority, in the cause of the proletariat and the semi-proletariat, of the working class and the poor peasantry.”

“ Mr. Stevenson then says :

“ Q. Mr. Martens, if I understand this portion of Lenine’s letter correctly, it is a statement that terror has been employed by the Soviet government ? A. Yes, it has been.

"Q. As a matter of fact, Mr. Martens, have not a considerable number of commissars at one time or another been executed in Soviet Russia? A. Yes, sir.

"Q. I believe at one time you named to me the number? A. I think about 1,500 of them.

"Q. About 1,500 commissars were executed? A. Yes, sir.

"Q. This publication of which a large number of reprints were found among documents recently taken in the raid on the headquarters of the Communist Party in this city made a week ago last Saturday night.

"Mr. Martens (interposing).— Mr. Chairman, permit me a question.

"Mr. Stevenson.— Just a moment.

"The Chairman.— We will give you an opportunity to say all you desire.

"Q. Mr. Martens, as a matter of fact the Russian Soviet Republic is based upon the principles of the Communist Party of Russia, is it not? A. Yes, sir.

"Q. Isn't it one of the principles of the Communist Party that the workers of the world should unite? A. Yes, sir.

"Q. And that they should unite to overthrow capitalistic system the world over? A. Yes, sir.

"Q. Isn't it the principle of the Russian Soviet government that the capitalist governments of other countries should be overthrown; answer, yes or no. A. I cannot answer yes or no.

"Q. You have done it for me once before? A. Yes, but you put the question in different ways.

"Q. Well, supposing I put it precisely the same way—

"Mr. Stevenson.— I offer the book I was reading from in evidence.

"The Chairman.— It will be received.

"(Received and marked Exhibit 306 in evidence of this date).

"Q. The question is this: 'Isn't it a fact that in overthrowing the capitalist system (referring to the Soviet Government) they wish and state they wish the overthrow of the capitalist government?' Answer my question, please. A. Do they wish the overthrow of capitalist government, or do they not wish to, is that the question?

"Q. Yes, sir. A. That is their wish. Their wish is to change from the capitalist system to the socialist system.

"The Chairman.—How do they expect this change to come about?

"The Witness.—Well, the change may come in many ways, Mr. Chairman; the change may come on purely pacific ways, and it may come as a result of a bitter struggle. Many ways are possible.

"Q. Mr. Martens—

"The Chairman.—Just a minute. But they are willing to accept any way so long as it is done; so long as they obtain the result they do not mind which way that happens?

"The Witness.—They do not care how it is done.

"The Chairman.—Whether it is done by terror or diplomacy?

"The Witness.—It is a matter of the working class.

"The Chairman.—It is a matter for themselves to settle.

"The Witness.—It is a matter for themselves to settle.

"By Mr. Stevenson:

"Q. I ask this question again: Isn't it a matter wherever the Soviet Government issues propaganda advising the propriety of overthrowing capitalist governments of other countries? A. They are issuing propaganda as a defense.

"Q. I am asking you this question: Isn't it a fact that the Soviet Government issues propaganda advising the propriety of overthrowing the capitalist governments in other countries? A. No, it is not a fact. I deny it.

"Q. In answer to that question before you said it does. A. It does in a specific way as a means of defense against attacking.

"But it does, does it not? A. Yes, as a means of defense.

"Mr. Berger.—Would you call Lenine's letter to the American Workingmen as a matter of defense, a matter of affirmative defense?

"The Witness.—As a matter of defense to a certain extent.

"Mr. Berger.—Is it a matter of propaganda?

"The Witness.—Yes, sir.

"Mr. Berger.—Then it is affirmative propaganda, is it not?

"The Witness.—Yes."

"Now, at page 53, one sentence (reading):"

"By the Attorney-General:

"Q. Under the definition which you have given yourself of capitalistic government, do you call the government of the United States a capitalistic government? A. Yes."

Now, on page 102 (reading):

"By Mr. Stevenson:

"Q. After the November revolution of 1917, when the Russian Communist Party assumed control of the government, did they not allow the greatest freedom of speech to the press and in the Assembly in Russia? A. Yes, they did.

"Q. And subsequent to that time, were there elections held for a constituent Assembly? A. Yes.

"Q. And were those elections held throughout the entire territory under the control of the Soviets? A. Yes.

"Q. About how long a period was occupied in those campaigns for those elections? A. I think a couple of months.

"Q. And were delegates chosen during those campaigns for members of the constituent assembly? A. Yes, they were.

"Q. And what were the various parties that ran candidates for that Assembly? A. The three main parties: One, so-called, the Bolsheviks; the other the Social Revolutionists; the other, the Mensheviks; and Constitutional Democrats — four parties.

"Q. And what was the result of that election? What were the various proportions of delegates returned to that Assembly? A. I don't remember exactly the figures. It was approximately 40 per cent. Bolsheviks and about as many Social Revolutionists, and the rest for the other parties.

"The Chairman.— Did you say 40 per cent. Bolsheviks?

"The Witness.— Yes, 40 per cent."

"By Mr. Stevenson:

"Q. So that the majority of that Assembly constituted other than the Bolshevik representatives? A. Nobody constituted a majority.

"Q. I mean a majority of the delegates were not Bolshevik representatives? A. Yes.

"Q. Did that Assembly ever meet? A. Yes, sir.

"Q. When did it meet? A. In December, 1917, I think.

"Q. And where did it meet? A. Petrograd.

"Q. And was that assembly permitted to sit? A. Until a certain time, yes.

"Q. And then what was done to it? A. Well, then the Soviets demanded a revolutionary assembly and it was dissolved.

"Q. It was dissolved? A. Yes.

"The Attorney-General.—About when was that?

"The Witness.—January, 1918, I think; it began in January, 1918.

"The Attorney-General.—January, 1918?

"The Witness.—Yes.

"By Mr. Stevenson:

"Q. After the dissolution of the Constituent Assembly, was the same freedom of speech allowed as had been allowed previous to that time? A. Yes.

"Q. It was? A. Yes.

"Q. When was the revolutionary tribunal of the press set up? A. It was set up after the beginning of the intervention.

"Q. When was that? A. The summer of 1918.

"Q. When was the revolutionary tribunal set up? A. Also the same time."

The Chairman.—What page are you reading from?

Mr. Sutherland.—Page 103. The rest of that page is all I want to read. (Reading):

"Q. And was that the time when the terror was instituted?

A. It was the time when several of the people were assassinated and when an attempt was made to assassinate Lenine and the People's Commissar.

"Q. And the purpose of those tribunals was to prosecute counter revolutionary activities? A. Exactly.

"Q. And then a party agitating against the soviets were constituted counter revolutionaries, were they? A. Yes, several parties; one of them was the anarchists, constituted to overthrow the government was done by the constitutional Democrats.

"Q. Were they the 'cadets'? A. Yes.

"Q. So they were the principal parties that had been active in the campaign for the Constituent Assembly, were they not? A. Oh, no.

"Q. Well, the Cadets you mentioned? A. The Cadets and Social Revolutionists.

"Q Those two parties were treated as counter revolutionists, were they not? A. Yes, and the anarchists, too."

That finishes the part that we intended to read.

Mr. Stanchfield.—I offer in evidence a copy of the Call —

The Chairman.—In that connection you might read these last few questions on page 106: "Have you ever made any request," etc.

Mr. Stanchfield.—At the request of the Chairman I read from the bottom of page 106. (Reading):

"Q. Have you ever made any request for information respecting persons who might be favorable to the recognition of Soviet Russia in Washington? A. Oh, certainly, I try to find out everything concerning the views of the United States Government.

"Q. I see. Well, what methods have you employed to find that out? A. Often I send some of my staff to Washington.

"Q. Whom do you usually send? A. On a couple of occasions I sent Mr. Clark and Mr. Nuorteva.

"By The Attorney-General:

"Q. You mean by the United States Government the members of Congress? A. Yes.

"Q. And members of the State Department? A. Yes."

Mr. Stanchfield.—I offer in evidence this "Call" of March 20, 1919.

(Paper marked Exhibit 106.)

Mr. Stanchfield.—I understand that the whole of the testimony of Ludwig C. A. K. Martens is in evidence, but it has not been marked. I will mark it now, so that there will be no controversy about it hereafter.

(Marked Exhibit 107, February 10, 1920.)

Mr. Stanchfield.—I will read just three or four sentences from this Exhibit 106:

"The main problems that confront us today are:

"A. The socialization of the large industries and their central organizations, the banks.

" B. The confiscation of the lands of the great land holders, and the socialization of capitalist agricultural production.

" C. The monopolization of trade.

" E. The socialization of the great buildings and houses in the cities and on estates."

Mr. Block.—Will you state what you are reading from, what article?

Mr. Stanchfield.—I am reading from the "Communist Congress" outlines, aims and principles and invites world cooperation." The words used are the tendency of the party represented by Debs, and inasmuch as Debs was your candidate for President, and he is always spoken of as "Our Gene," I suppose he is the man.

Mr. Roe.—Might I inquire this: That is a Manifesto not originating in this country, published in that paper the same as it might have been published in the New York Times or any other paper.

Mr. Stanchfield.—Yes. I am reading it to get definitions. (Reading):

" E. The socialization of the great buildings and houses in the cities and on estates.

" F. The introduction of the administration by the workers and the centralization of the economic functions in the hands of the organs of proletarian dictatorship.

" The term 'socialization' as herein used, means the abolition of private property and its transfer to the ownership of the proletarian state and the Socialist administration of the working class.

" 5. For the purpose of safeguarding the Socialist revolution for defense against enemies within and without, of assistance for other national groups of the fighting proletarian, etc., the complete disarmament of the bourgeoisie and their agents and the general arming of the proletariat is necessary."

So far as counsel for the Committee are concerned, we rest.

Mr. Stedman.—They have read a portion of a large number of documents in their case, and we have a right to finish reading those.

The Chairman.— I do not understand there is any such thing as “rest” in this case. This is an investigation, and the idea of resting and moving for a nonsuit is ridiculous. This is an investigation, and we have a right to hear it anyway we like.

Mr. Stanchfield.— That ruling is very satisfactory to me, because when my distinguished friend on the other side moves to strike out, and then makes another motion to dismiss —

Mr. Stedman.— Don’t be so sure that we shall make such a motion.

The Chairman.— I call you gentlemen’s attention to what they sent us here to do: “Resolved, That the investigation into the qualifications and eligibility of the said persons to their respective seats in this Assembly be and hereby is referred to the Committee on the Judiciary of the Assembly of the State of New York to be hereafter appointed, and the said committee be empowered to adopt such rules of procedure as in its judgment it deems proper, and that said Committee be further empowered to subpoena and examine witnesses and documentary evidence, and to report to this body its determinations as to the qualifications and eligibility,” and so forth.

Mr. Stanchfield.— Then that concludes the presentation of evidence by counsel for the Committee.

The Chairman.— As far as you can see now.

Mr. Stanchfield.— Yes.

The Chairman.— We may want other evidence and may go other places to get it. Recess until five o’clock.

AFTER RECESS, 5:10 P.M.

The Chairman.— Proceed.

Mr. Roe.— I have looked over rather hastily this testimony of Mr. Martens, and there are certain portions of it that I think it is fair to read in connection with what has been read. Of course, this is not waiving the objection that we have nothing to do with this testimony.

The Chairman.— That may appear on the record. Proceed.

Mr. Roe.— I am reading from page 34:

“ The Chairman.— You may proceed, if you desire to read your corrections, as I understand it, in the minutes. Is there objection to that, General?

“ The Attorney-General.— I have no objection.

“ The Witness.— (Reading) ‘Although ostensibly I have been called before your Committee as a witness, yet in effect the statements given out to the press by the Attorney-General’s office make it appear that the object of my examination is to obtain evidence in order to proceed against me. Still I have been denied the privilege of counsel’——

“ The Chairman.— That is a statement, isn’t it?

“ The Attorney-General.— That is a sermon you are preaching now, that is not a correction.

“ Mr. Martens.— Yes, I will get to it in a minute.

“ The Chairman.— I though possibly you could make that statement at the end.

“ The Attorney-General.— Well, let him do it in his own way first.

“ The Witness (resuming reading).— ‘with the result that the examination has been one-sided and the testimony given by me, through its incompleteness, is open to misrepresentation. I therefore desire to make the following statement, in order to correct actual errors and the gaps in the record.

“ ‘The record of my testimony on pages 1071–1072 contains the following questions and answers:

“ ‘“ Q. Did you register as an alien enemy when you entered this country? A. No, sir.

“ ‘“ Q. Or at any time when you were in this country? A. No, sir.

“ ‘“ Q. At any time while this country was at war with Germany? A. No, sir.

“ ‘“ Q. In spite of the fact you entered as a German citizen? A. In spite of the fact that I entered as a German citizen.

“ ‘“ Q. What citizenship do you now claim? A. Russian citizenship.

“ ‘“ Q. How did you acquire Russian citizenship? A. I applied for Russian citizenship papers since the outbreak of the Russian revolution.

“ “ Q. When? A. In March, 1917.

“ “ Q. You have not left this country since you last came here? A. No, I did not leave.

“ “ Q. When did you receive notice of your having become a Russian citizen, Mr. Martens? A. I think May, 1917, or maybe June, 1917.” ’

“ This testimony is followed by an effort to assail the regularity of my Russian citizenship. The examination conducted by Deputy Attorney-General and Associate Counsel to the Committee, however, has failed to bring out all the facts relating to my Russian citizenship, and it is a well-known rule that anything short of the whole truth may in effect amount to an untruth. My testimony shows that I was born and educated in Russia; that in 1899 by reason of my affiliation with the Russian revolutionary movement, I was deported by the Czar's government to Germany; that I continued my affiliation with the Russian revolutionary movement up to the revolution which began with the abdication of the Czar, to the establishment of the Provisional government on March 16, 1917. This Provisional Government was officially recognized by the government of the United States and the State of New York.

“ One of the first acts of the Provisional Government was a proclamation of amnesty for all political offenders which was made three days after the abdication of the Czar, to wit., on March 17, 1917. The Provisional government followed that act by an invitation to all Russian political refugees to return to Russia at government expense. Under the terms of the amnesty I was entitled to return to Russia. Owing to the fact, however, that, although born and bred in Russia, I was technically a German subject, and that Russia was then at war with Germany, I could not avail myself of the benefit of the amnesty proclamation without a special act of the Provisional government. I therefore immediately applied for admission to Russian citizenship, and my application was granted by the Provisional government of Prince Lvoff in May or June, 1917. By this act of the Provisional government, I thus became a Russian citizen.

“ I desire to emphasize the fact that my naturalization as a Russian citizen was granted by an act of the government which was recognized by the government of the United States.

"The general rules and regulations prescribed by the Attorney-General of the United States for the registration of German alien enemies, were issued on December 31, 1917, pursuant to the proclamation of the President of the United States, Dated November 16, 1917. . At that time I was already a Russian citizen and was therefore not subject to registration under those Rules and Regulations."

Mr. Stevenson.—Mr. Chairman, may I interrupt just a moment? I want to call attention to the fact that those corrections were made by Mr. Martens to the minutes which referred to the propaganda of the Soviet Government, being directed to the overthrow of the capitalist government, and that that portion of his testimony he did not correct.

The Chairman.—Well, it is there for what it is worth.

Mr. Roe.—I have not read all of the corrections, but I want to make one point perfectly clear. I now read from page 41: (Reading).

"By the Attorney-General:

"Q. Mr. Martens, I want to ask you a few questions as to your knowledge of the Russian bonds that were in force at the time of the formation of the Provisional Government—and I mean by that identifying it with the reign of Lenine and Trotzky. A. Russian what?

"Q. Bonds. A. Yes.

"Q. Do you know how many bonds were issued by the former governments, or how many are outstanding against Russia? A. You mean foreign bonds?

"Q. Yes, such bonds as were sold largely in the United States, do you not? A. Yes. I know only of two bond issues; one was made by the Imperial Russian Government, \$50,000,000, and another one was made by the Provisional Government, as far as I remember it—also fifty.

"Q. So there were \$100,000,000 in those bonds in force at the time of the formation of the Soviet Government? A. Yes.

"Q. And you know as a fact that those bonds were sold quite extensively in the United States? A. Yes.

"Q. Now, what action, if any, did the Lenine and Trotzky Government take in relation to those outstanding obligations? A. The Soviet Government offered, on several occasions, to pay these bonds.

"Q. Well, offered to pay them how? A To negotiate about the method of payment and to pay them.

"Q. Is it not a fact that they repudiated every financial obligation of the former government? A. No, it is not true.

"Q. It is not? A. No.

"Q. That you know of your own knowledge? A. yes. If you will permit me, I will tell you more about it.

"Q. Well then, I will let you tell what you know about it, of course. A. Well, the former obligations of the Imperial Government were repudiated by the Congress of Soviets, and the Government of Soviet Russia was given the power to repudiate them at any moment officially. This power was never used by the Soviet Government. The Soviet Government offered, on many occasions, to come to an understanding with the Soviet Congress in regard to the payment of the bonds.

"Q. In what way and upon what terms? A. There are many terms possible—to pay the debts. The country is not in a position at present, but they make methods so possible to adjust a settlement.

"Q. But you mean by settlement to pay less than the face of them? A. No, to pay interest or to engage a concern of bankers to take over the debts or in any other way.

"Q. What particular information have you which is reliable that the Soviet Government has ever in any way admitted or been willing to pay interest or assume the financial obligation of these bonds, in any way? A. I have an official paper from the Soviet Government telling me to offer to the American Government and to some concerns interested in the question of debts the settlements, so I did.

"Q. Have you that paper? A. Yes, I have it.

"Q. Can you produce it? A. I could not produce the papers of the Soviet Government without having the permission of the Soviet Government.

"Q. You have such papers? A. Yes.

"Q. Have it in your possession? A. Yes.

"Q. So that we may have no understanding about the record, you decline to produce it? A. Yes, sir.

"Q. What financial institution did you acquaint with the fact that you had such authority from the Soviet Government? A. Well, I had informal discussions with some

people who are connected with these financial institutions, but it did not come so far that it could be called official negotiations."

Mr. Roe.— Page 43 (Reading):

"Q. My inquiry, so that we won't get off the track, that's all, my inquiry is what other institution you attempted to communicate the desire of the Russian Government to pay the obligations of these bonds you have referred to. A. I did not refer to any particular banking institution. My idea was to organize several banking institutions and one big concern who could take care of some big financial transactions."

"Q. Of course, the financial transactions, so far as these bonds are concerned, consisted of an obligation on the part of some Russian Government? A. Yes.

"Q. And they had already had the money, some Russian Government had already had the money? A. Yes.

"Q. And of course if they were ever paid they would have to be paid by Russia? A. Certainly.

"Q. And there is no organization or combination of capital in this country which would help that in any way? A. Oh, yes, it could help in many ways. Now, you know, Mr. Newton, that every country in Europe is bankrupt now, the financial bankruptcy is all over Europe, not excluding England, Germany, France and also Russia, and to make some financial arrangements it is necessary to have the assistance of the bankers and it is my idea to get the assistance here in the United States of America.

"Q. Of course, the obligation upon those bonds now is principally in the payment of the interest, isn't it? A. No, the bonds of 1919 are due now, I think they are due in June of this year.

"Q. Were they short term bonds? A. Yes.

"Q. There are some obligations of interest on these bonds which have been out and unpaid for some considerable period of time? A. Yes, sir. It is my idea to pay all these debts, if the political and economic negotiations will proceed in a satisfactory way.

"Q. You are very certain that any information that I have that the Lenine and Trotzky government absolutely repudiated the financial obligations of their country on those bonds is not so? A. Not so, no.

"Q. And you are positive as you can be from information which you have that they are desirous of making some arrangements to pay those old obligations? A. Yes.

"Q. Notwithstanding their obligation as to capitalized government or anything else? A. Exactly."

Mr. Roe.—At the bottom of page 48 (reading):

"Mr. Stevenson (addressing the witness).—That is Lenine, can you tell me?

"The Witness.—Yes, that is Lenine.

"Mr. Stevenson.—Can you tell me what date?

"The Witness (examining the translation).—I don't know whether the translation is made true, but any how it looks like a translation of a decree of the 23rd of December, 1917. If you remember, gentlemen, the time, if you know the circumstances which were connected with this decree, you will immediately understand that it was an offensive measure against, chiefly, the Imperial German Government—not the Imperial, but the present German Government, yes, and the Imperial, too, which was menacing the existence of Russia at that time.

"Mr. Stevenson.—How about all countries?

"The Witness.—About all countries, nothing said. Russia had most to do with the German government at that time. It was December, 1917, I repeat—not, at some time—

"Mr. Stevenson.—Just a minute. Coming back to the proposition of the position of the Soviet Government towards the capitalists and capitalism, Nicholas Lenine speaks for the Russian Communist Party, does he not?

"The Witness.—Yes."

Mr. Roe.—Then it goes on to a subject which was not read, so I will not read anything on that.

What I will read now immediately precedes the paragraph that was read, and should go in connection with it. I will read now from page 51:

"The Attorney-General.—Now, we hear a good deal from the Soviet Government in relation to a government which they call a capitalistic government.

"The Witness.—Yes, sir.

"The Attorney-General.—What do you mean when you refer to a government as a capitalistic government?

"The Witness.—Well, a government which is dominated by capitalistic interest and any capitalist countries where capitalism is developed and influential and has power to dominate a situation, has power to influence any public institution—I call that a capitalistic government.

"The Attorney-General.—And you call this government, the United States government, a capitalistic government?

"The Witness.—Well, it is a Democratic government.

"The Attorney-General.—Do you call it a capitalistic government, under your definition of a capitalistic government?

"The Witness.—No.

"The Attorney-General.—What do you call it?

"The Witness.—A Democratic government, a Democratic parliamentary government.

"The Attorney-General.—And not a capitalistic government in any way?

"The Witness.—'A capitalistic government' is a vulgar form of speech, which has a certain theoretical definition. We cannot discuss all of these theoretical questions, the Rand School will explain you all the definitions of capitalistic government.

"Mr. Stevenson.—Does not the Rand School say this is a capitalistic government?

"The Witness.—Let them say what they will.

"The Attorney-General.—You are not here to defend the Rand School.

"The Witness.—No, sir.

"The Attorney-General.—That is a job by itself? Now, I framed my question to suit you, I thought I was asking you for your definition of a capitalistic government, which you gave me; is that right?

"The Witness.—Yes.

"The Attorney-General.—Now, I ask you whether under that definition you call the United States government a capitalistic government?

"The Witness.—I repeat—

"The Attorney-General.—I leave it all to yourself, your own mind and your—

"The Witness.—I mean if it is used in a vulgar way, it may give absolutely a different impression. Capitalism as understood theoretically is an absolutely clearly defined state

of things. So in this sense, I could call the United States Government a capitalistic Government, and the English Government also a capitalistic government, and the German government also."

Mr. Roe.— Then comes the part which counsel on the other side read:

I now read from page 89, the middle part of the page, lower-half of the page, rather:

"By Mr. Stevenson:

"Q. There is to be a meeting of the Third International shortly in Moscow, is there not? A. Not as far as I know.

"Q. Are you sure of that? A. Yes.

"Q. Well, haven't you as a matter of fact, given letters of introduction to such persons leaving this country as delegates to the Third International? A. I never have.

"Q. Are you sure of that? A. Absolutely.

"Q. Who is Comrade Minna J. Dunn? A. Minna J. Dunn? Well, as far as I remember, I see a photographic copy of a letter I issued to a woman by the name of Dunn — sometimes people come to us telling me they are going to Soviet Russia, showing me their passports, and I am giving them a letter in place of a vise of the passport; so on several occasions, I think maybe five or six times, I did it.

"Q. You would only give it in special instances? A. No, to anybody who is going to Soviet Russia.

"Q. Well, did you give such a letter to Mr. John Reed when he left here? A. No, I did not.

"Q. Are you sure of that? A. Absolutely sure.

"Q. Did he ever ask you for one? A. No, he never asked me for that.

"Q. Well, you are perfectly sure? A. Yes, perfectly sure.

"Q. You have not been informed that there is to be a meeting of the Third International in Moscow? A. No, I think you are mistaken. I did not know anything about it. There was a meeting in March —

"Q. Yes, but a convention — A. I didn't know anything about it.

"Q. You have not been informed by your home government to that effect? A. No."

Mr. Roe.— I now read from page 93, near the top of the page.

"By Mr. Stevenson:

"Q. As a matter of fact, you have not been able to enter into any substantial commercial transactions, have you, owing to the conditions of transportation here? A. Oh, yes; I entered into quite substantial commercial relations with people, and quite big people, here in America.

"Q. Well, have they actually signed contracts with you? A. Some of them have actually signed contracts.

"Q. How many of them have actually signed contracts? A. I think, about a dozen of them, to the amount of twenty million dollars.

"Q. Would you give us the names of these firms? A. If you wish, I can give you, to-morrow, a full list."

Mr. Roe.—Page 104, and this follows the paragraph or two which was read by counsel on the other side:

"Q. When did you see Mr. Frank P. Walsh last? A. Frank P. Walsh, I saw about three weeks ago.

"Q. And was at a conference between Mr. Walsh, Mr. Fitzpatrick and yourself? A. No, Mr. Fitzpatrick was not there.

"Q. Are you sure? Was this conference at Mr. Walsh's office? A. No.

"Q. Where did it take place? A. Oh, yes; I think it was at Mr. Walsh's office.

"Q. Are you certain Mr. Fitzpatrick was not present? A. No, he was not.

"Q. Well, who was present at the conference that you had with Mr. Frank P. Walsh? A. Well, Mr. Walsh himself and Mr. Nuorteva and I myself.

"Q. Are you sure there was no one else present at that conference? A. Oh, Mr. Hourvich.

"Q. Who else? A. No one else.

"Q. No other man present? A. No, no.

"Q. Well, where else did you meet Mr. Walsh besides his office? A. A couple of days before this conference I met him at his house.

"Q. At what hotel did you have a conference with Mr. Walsh? A. I don't remember the name; it was somewhere in Park avenue.

"Q. And who was present at that conference? A. We three.

"Q. Just you three? A. Yes.

"Q. What was the nature — what was the subject of the conference? A. I invited Mr. Walsh to participate, or to act as my counsel.

"Q. And you are certain that Mr. John Fitzpatrick was not present at either of these conferences? A. I am certain.

"Q. The only subject which you discussed with Mr. Walsh was whether he would be your counsel or not? A. Yes. If another person was present, it was Mr. Recht. I forgot about him. Mr. Recht was present also."

On page 105 there is one other short matter (reading):

"Q. You have stated that one of the principal businesses of your office was to counteract the false impressions which are being given of Soviet Russia? A. Yes, sir.

"Q. And how do you go about it? A. I don't understand your question, Mr. Stevenson.

"Q. What methods do you employ? A. We are publishing a paper under the name of Soviet Russia. It is a weekly and consists of about 24 to 32 pages of information.

"Q. And do you publish in that paper documents received from Russia? A. Yes, sometimes.

"Q. And original articles by persons that you select to describe conditions in Russia? A. Yes, yes.

"Q. What other methods do you employ? A. Well, that is the only method I am employing for this purpose."

We now go to page 110 for a brief quotation — the upper half of the page 110 (reading):

"Q. Do you know any others? A. No.

"Q. Cohen? A. No.

"Q. Fraina? A. Yes, I think I met him on several occasions.

"Q. Your sympathies are with their doctrines to be perfectly frank, Mr. Martens? A. Well, to be perfectly frank, I have not seen their program. Maybe they make mistakes. I cannot judge. All I can tell you is I have absolutely no connection with the Communist party."

And then on page 113 — the upper half of the page — this is Mr. Berger's examination (reading):

"Q. You have been kept quite fully informed, have you not by Mr. Recht, concerning the various steps taken in the cases of the men recently arrested in this city? A. No, I have not had time to discuss it.

"Q. Well, what have you been so busy with, Mr. Martens, if that is not an impertinent question? A. Well, Mr. Berger, you gave me a lot of trouble.

"Q. Not all the time? A. Well, still I have my other business.

"Q. In what direction? A. My usual business and correspondence with different commercial firms, and attending to office business. It takes my time."

On page 116 (reading):

By Mr. Berger:

"Q. Now, just to go back to the Shatoff matter for a minute. Will you tell us in detail what his duties are in Petrograd? A. I do not know what his duties are.

"Q. Well, you are pretty well informed on conditions there, are you not? A. Certainly; as far as I know, Mr. Shatoff is a very good chief of police. He suppressed every crime in Petrograd. Petrograd is now the safest city in the world. American people coming from Petrograd say it is much safer than New York, Chicago, or other American cities; and they claim it is due to the energies of Shatoff.

"Q. Well, is it particularly safe for the so called counter-revolutionists there? A. Absolutely.

"Q. What did he do to the counter-revolutionists to make it so safe for them? A. We have our regular court proceedings and every criminal caught in Russia is tried and given every opportunity to defend himself; so they are not killed or hanged, as you imagine, without trial. They are tried in a very regular way, and if they are executed, it is for something very substantial."

"By the Chairman:

"Q. How are the courts created? A. The courts are created by elections. The Judges are elected."

"By Mr. Berger:

"Q. Are they executed for crimes other than murder? A. Plotting against the government, treachery and those kinds of crimes.

"Q. And a counter-revolution is a crime punishable by death, is it not? A. A counter-revolution is; there are all kinds of penalties.

"Q. You mention that as among the crimes? A. No, I did not, Mr. Berger. A counter-revolution is — there are thousands of crimes — a counter-revolution may consist of assassinating any one of the people's commissars; or a counter-revolutionary act may consist of profiteering, or something of that kind. For one crime, the penalty may be one or two years in prison, or may be a month or two.

"Q. What was the particular crime of the 1,500 Commissars who were executed? A. Treachery.

"Q. What kind of treachery? A. Giving information to the enemy, chiefly.

"Q. Well, not all of them did that? A. Chiefly, I don't know every case, Mr. Berger.

"Q. Some of them merely spoke and agitated against the Bolsheviki? A. No, for speaking and agitating nobody was executed in Soviet Russia.

"Q. Will you identify the Mr. Frank P. Walsh you refer to? Which Mr. Frank P. Walsh was that? A. Will I identify him?

"Q. Yes, so that we know who it was? A. I cannot understand you.

"Q. Where is his office? A. Somewhere down town.

"Q. In New York city? A. Yes.

"Q. And has he any official position of any kind that you know of? A. No.

"Q. You don't know whether he has or not? A. I don't know.

"Q. Do you know whether he did have any official position? A. I know he was the past several years the head of a committee in Congress to investigate the trusts here in America, that I know.

"Q. And that is the same Mr. Walsh who was on the War Labor Board? A. That is right."

Mr. Stedman.— Mr. Chairman, before you adjourn I want to call your attention, if it has not been, to an apparent newspaper service issued and sent out to various papers and individuals. On the envelope it is purported to come from the committee, possibly of the Assembly. For instance, it says, "Committee on

Publicity for the Trial of the Five Assemblymen, Capitol, Albany, N. Y." I am calling that to the attention of the committee, because I think it ought to state its position publicly to whoever it may be who are using this purported news service, which is very biased and misrepresents the facts, and issued ostensibly for carrying information representing this committee or the Assembly.

The Chairman.— I think this committee has no information bureau and gives nothing out to the public, and does not intend to.

Mr. Roe.— It ought to be stated on the record —

The Chairman.— That anybody that sends it out does it without our authority.

Assemblyman Bloch.— Does it give the address of the Capitol?

Mr. Roe.— Yes.

Assemblyman Bloch.— I think we ought to find out who it is.

Mr. Block.— I agree with you.

Mr. Stedman.— It is the envelope we have particular reference to, Mr. Stanchfield, where it states where it is from.

The Chairman.— We will now take a recess until 10.30 tomorrow morning.

(Whereupon at 5:45 p. m., the committee recessed to meet Wednesday, February 11, 1920, at 10.30 o'clock in the forenoon.)

“THE GUIDING LINES OF THE COMMUNIST INTERNATIONAL

“(Adopted at the Congress of the Communist International
from March 2 to 6, 1919.)

I.

“A new era has dawned, the era of the collapse of capitalism, of its international breakup, the era of the Communist revolution of the proletariat. Triumphant proletarian revolutions in some countries; growing revolutionary fomentation in other countries; uprisings in colonies; the utter in-

capacity of the governing classes to guide any further the destinies of peoples — that is the spectacle of the present state of things throughout the world. Humanity, whose entire civilization now lies shattered in fragments, is menaced by the danger of complete annihilation. There is only one power which can save it; that power is the proletariat. The old capitalist order cannot exist any longer. Chaos is the final result of the capitalist method of production, and it can only be overcome by the largest productive class — the working class. Real order — the Communist order — must be made by the workers. They must break the domination of capitalism, make wars impossible, abolish all state frontiers, transform the whole world into one community whose labor shall be for its own and realize the brotherhood and liberty of the peoples.

“As against this, world capitalism is making ready for the final contest. Under the guise of ‘a League of Nations,’ and with a host of pacifist phrases, it is making a last attempt to piece together again the parts of the capitalist system, which are spontaneously crumbling, and to direct its forces against the ever-growing proletarian revolution. The proletariat must reply to this colossal conspiracy of the capitalist class by the conquest of the political power, direct that power against its class enemies and set it in motion as a lever for the economic revolution. The ultimate triumph of the proletariat of the world means the beginning of the true history of a free humanity.

“The capture of political power by the proletariat is identical with the destruction of the political power of the bourgeoisie. The organized power of the bourgeoisie is the bourgeoisie machinery of the government, with its capitalist army, commanded by bourgeois and junker officers; with its police and gendarmerie; with its jailers and judges; with its priests and state functionaries. The conquest of political power does not simply mean a change of personnel in the ministries. It means the overthrow of the hostile state-machinery, the disarmament of the bourgeoisie, of the counter-revolutionary officers, the White Guards, and the arming of the proletariat of the revolutionary soldiers and of the Red Workers’ Guards; the removal of all bourgeois judges, and the organization of proletarian tribunals; the abolition of the rule of the reactionary state officials and the

creation of new proletarian organs of administration. The triumph of the proletariat consists in disorganizing the hostile authority and organizing the proletarian authority; in destroying the bourgeois state machinery and creating a proletarian machinery of state. Only after the proletariat has achieved victory and has broken the resistance of the bourgeoisie can it make use of its former opponents for the benefit of the new order by placing them under its control and gradually associating them in the work of the Communist reconstruction.

“DEMOCRACY AND DICTATORSHIP.

“The proletarian state, like every other state, is an apparatus of repression. It is, however, directed against the enemies of the working class. Its aim is to break down the resistance of the exploiters, who, in the desperate contest, use every means to suppress the revolution in blood and render it impossible. The dictatorship of the proletariat, which gives it a privilege position in society, is otherwise, a temporary arrangement. In proportion as the resistance of the bourgeoisie is broken, and the bourgeoisie is expropriated and gradually becomes a part of the working class, the dictatorship of the proletariat will disappear, the state will die out and the classes will cease to exist.

“So-called democracy, i. e., the bourgeois democracy, is nothing but the veiled dictatorship of the bourgeoisie. The famous common ‘will of the people’ no more exists than does the ‘Homogenous nation.’ As a matter of fact, what exists is classes with antagonistic, irreconcilable interests. Inasmuch, however, as the bourgeoisie represents but a small minority, it needs this fiction, this pretense of the national ‘will of the people,’ in order, by means of this high-sounding phrase, to establish its domination over the working classes and impose upon them its own class-will. As against this, the proletariat forming, as it does, the vast majority of the population, openly makes use of the class-power of its mass-organizations, of its councils (Soviets), in order to abolish the privileges of the bourgeoisie, and to secure the passage to a Communist society, in which class will have no place. In bourgeois democracy the center of gravity lies in the purely formal declarations of rights and liberties; which, however, are quite unattainable by the working people — the

proletariat and semi-proletariat—who possess no material means while the bourgeoisie employs its material means in order to deceive and gull the people with the aid of its press and organizations. As against this, the Soviet system—this new type of state-authority—applies itself to the task of enabling the proletariat to realize its rights and liberties. The Soviet authority hands over the best palaces, houses, printing works, stocks of paper, etc., to the people for its press, its meetings and its unions. Only in this way, indeed, does a real proletarian democracy become possible.

“Bourgeois democracy, with its parliamentary system, only deludes the masses of the people into believing that they participate in the government of the state. In point of the masses and their organizations are held completely at a distance from actual power and actual government. In the Soviet system, on the contrary, it is the organization of the masses, and through them the masses themselves that govern, since the Soviets associate with the state administration an ever increasing number of workers. Only in this way will the entire working population gradually become associated with the actual business of government. The Soviet system rests therefore on the mass organization of the proletariat, that is, on the council (Soviets) themselves, the revolutionary trades unions, cooperative societies, etc. Bourgeois democracy and the parliamentary, by the separation of legislative and executive power and by the irrevocable parliamentary mandate, widen the gulf between the masses and the State. Under the Soviet system, on the contrary, the right of recall, the combination of the legislative and executive powers, the character of the councils as working corporations, identify the masses with the government of the country. This connection is further promoted by the fact that under the Soviet system the elections do not take place on the basis of artificial territorial areas but on that of places of production.

“In this way the Soviet system realizes true proletarian democracy—democracy for and within the proletariat, as against the bourgeoisie. The industrial proletariat enjoys under this system a privileged position, since it is the most advanced, the best organized, and politically, the ripest class under whose hegemony the semi-proletariat and the small peasant of the countryside are to be gradually raised to a higher level. These temporary privileges of the industrial

proletariat must be made use of in order to withdraw the poorer, lower middle class masses of the country-side from under the influence of the large farmers and bourgeoisie, and to organize and educate them as co-workers in the task of Communist reconstruction.

“THE EXPROPRIATION OF THE BOURGEOISIE AND THE
SOCIALIZATION OF PRODUCTION.

“The dissolution of the capitalist order and of capitalist discipline of labor makes the reestablishment of production on a capitalist basis, impossible. Wage disputes of the workers, even if they are successful, do not bring about the expected amelioration in their condition. The standard of the workers life can really be raised only when production is controlled not by the bourgeoisie but by the proletariat itself. In order to raise the productive economic powers, in order to break, at the earliest possible moment, the resistance of the bourgeoisie, which is prolonging the death struggle of the old social order, and is thus leading to utter ruin, the proletarian dictatorship must carry through the expropriation of the large capitalists and landowners and transform the means of production and exchange into the common property of the proletarian state.

“Communism is now being born from the wreckage of capitalism. History does not offer mankind any other way of escape. The opportunists who make the Utopian demand for the resuscitation of the capitalist economic society, in order to defer socialization, only prolong the process of dissolution and increase the menace of a total cataclysm. The Communist revolution, on the contrary, is the best and only means by which the most important productive force—the proletariat, and with it society itself—can be preserved.

“Proletarian dictatorship in no way carries with it any kind of distribution of the means of production and exchange. On the contrary, its object is to bring about a greater centralization of the productive forces and to co-ordinate production as a whole, according to one uniform plan. As the first steps to the socialization of the entire economic resources the following may be mentioned: The socialization of the machinery of the great banking institutions which at present control production; the capture through the gov-

ernment of the proletariat of all the economic institutions managed by the state; the taking over of all municipal enterprises; the socialization of the syndicates and trusts as well as such industries when the concentration and centralization of capital permits it; the socialization of landed estates and their conversion into socially managed agricultural concerns. As regards the smaller concerns the proletariat must unite them by degrees, according to their size. But here it must be expressly emphasized that small property proletariat must unite them by degrees, according to their size. But here it must be expressly emphasized that small property will in no way be expropriated and that proprietors who do not exploit hired labor will not be exposed to any violent measures. This section of the population will be gradually drawn into the Socialist organization by example and by practice, which will demonstrate to it the advantages of the new order — the order which will release the small peasantry and the small urban producer from the economic pressure of usurious capitalists and landlords and from the burden of taxation (especially through the annulment of State debts).

“The task of the proletarian dictatorship in the economic sphere can only be fulfilled in proportion as the proletariat is able to create centralized organs for the management of production and to introduce management by the workers. To that end it must necessarily make use of those of its mass organizations which are most closely bound up with the process of production.

“DISTRIBUTION.

“In the domain of distribution the proletarian dictatorship must replace commerce by a just distribution of products. To attain that the following measures need to be taken: The socialization of the whole business; the taking over by the proletariat of the entire state and municipal machinery of distribution; the control of the large co-operative societies, whose organizations will yet play an important economic part in the period of transition, and the gradual centralization, and conversion of all these bodies into one homogeneous whole, carrying out a rational distribution of products.

“Both in the sphere of production and in that of distribution all qualified technicians and specialists are to be made use of when their political composition has been broken

and they have learned how to accommodate themselves, not to capitalism, but to the new system of production. The proletariat will not oppress them, but, on the contrary, will give them for the first time the opportunity for unfolding their creative capacities. The proletarian dictatorship will replace the separation between manual and brain work which capitalism has developed by their combination, and in that way will unite science and labor. Simultaneously with the expropriation of factories, mines, estates, etc., the proletariat must abolish the exploitation of the people by capitalist house owners, and place the large houses at the disposal of local workers' councils and settle the working class in bourgeois residences.

"During this great period of transformation the Soviets must build up without intermission, the whole apparatus of government in an ever more centralized form, while at the same time directly associating with administration ever larger sections of the laboring population.

"THE ROAD TO VICTORY.

"The revolutionary epoch demands that the proletariat should employ such fighting methods as will concentrate its entire energy, viz., the method of mass action, and lead to its logical consequence — the direct collision with the capitalist state machine in an open combat. All other methods, e. g., revolutionary use of bourgeois parliamentarism, will in the revolution have only a subordinate value.

"The indispensable pre-requisite of such a successful struggle is the separation, not only from the actual lackeys of capitalism and the executioners of the Communist revolution — which is the role of the Social-Democrats of the Right — but also from the Center parties (like the Kautskyans), which at the critical moment abandoned the proletariat in order to compromise with its avowed enemies. On the other hand a coalition is necessary with those elements of the revolutionary workers' movement who, though they did not previously belong to the Socialist Party, now on the whole, take up the standpoint of the proletarian dictatorship in the form of the power of Soviets, e. g., some of the sections among the Syndicalists.

"The growth of the revolutionary movement in all countries; the danger of the strangulation of this revolution by the alliance of capitalist states; the attempt of the Socialist traitors to bind themselves together (the formation of the Yellow "International" at Berne) in order to help the Silsonian League; and lastly, the absolute necessity of co-ordinating proletarian activities — all this must lead to the establishment of a really revolutionary and really proletarian-communist-international. This international, subordinating as it does so-called national interests to the interests of the international revolution, will embody the mutual aid of the proletarian in the various countries, because without economic and other mutual assistance the proletariat will not be able to organize the new society. On the other hand international proletarian communism, in contrast to the Yellow Socialist-Patriotic international, will give support to the exploited colonial races in their fight against Imperialism, so as to advance the ultimate overthrow of the Imperialist world system.

"THE FINAL CONFLICT.

"The capitalist criminals asserted at the outbreak of the world war that they were only defending their respective fatherlands. Soon, however, German Imperialism showed by its acts of blood in Russia, in the Ukraine, and in Finland its real predatory character. At present the Entente Powers, too, stand unmasked as world-bandits and murderers of the proletariat. In company with the German Bourgeoisie and with the Socialist-patriots, their lips muttering hypocritical phrases about peace, they are trying, by the aid of their war machines and stupefied barbarian colonial troops to throttle the revolution of the European proletariat. The White Terror of the Bourgeoisie is indescribable, countless are its victims amongst the working classes. Liebknecht, Rosa Luxemburg — their best have perished. Against this the proletariat must defend itself — defend itself at all cost! The Communist international calls the whole world-proletariat to this, the final struggle!

"Down with the imperialist conspiracy of capital! Long live the international republic of proletarian Soviet!

"There is a largely but spirited preamble to the manifesto for which there is no room here. This will be published in an early issue of the Call."

EXHIBIT 103.

" SPARGO'S REPORT DEFINES PROGRAM OF WAR DEMANDS.

" Maintains to Express Indifference to Conflict is Treachery to Socialism.

" The congress of the United States has declared that a series of illegal acts on the part of the German government constitute war against this nation. We are now actually at war with Germany and her allies. The great struggle which for nearly three years has been waged between the principal European nations, a war of unparalleled magnitude and frightfulness, has at last drawn in this republic, until now the greatest of neutral nations.

" The Socialist party is compelled now to state, with greater definiteness and precision than has been done heretofore, the position of our party toward the war and upon the problems which the war inevitably presents.

" In the presence of this dire calamity we proclaim our unfaltering allegiance to the principle of internationalism. We have no quarrel with the people of Germany or of any other nation.

" Internationalism is Guide.

" Our guiding principle in all that concerns our relations to the people of other lands is internationalism. We are internationalists and anti-militarists.

" But internationalism does not mean for us anti-nationalism. Nor has it anything whatever to do with the vague doctrine of world-organization, for which no accurately descriptive name exists, symbolized by the picturesque ceremony of flag burning. This much exploited ceremonial was a crude attempt to symbolize a conception of a nationless world.

" We repudiate the claim made by some that loyalty to this national is inconsistent with true internationalism. Those who say that Socialism involves the view that the working class has no nation to call its own, that all nations are alike, that there is nothing to choose between a militarist autocracy and a democratic republic, do not preach Socialist internationalism, but pernicious reactionary nonsense.

" To say that there is no difference between governments is at once demagogic and untrue. Between the old Russian

regime and the new is a vast difference, even though the new regime is not a fully developed socialistic republic. Not to have a choice between them is to be a political imbecile rather than a social revolutionist.

"Internationalism presupposes nationalism. It is the inter-relation of nations. The maintenance of national integrity and independence is an essential condition of internationalism. This principle has never in the past been seriously questioned in our movement. It has been the guiding principle of our policies in the Socialist International.

"Upon that basis we have always defended the small nationalities and supported their struggles for independence. We have championed Ireland's struggles for national independence; we protested against the denationalization of Poland and aided the Poles in all their struggles and 1851 revolutions; we supported the Finns in their resistance to Russian despotism; we vigorously protested against the destruction of the national independence of Bosnia, Herzegovina and Bohemia. Our international policy has been uniformly consistent with this record.

"Invasion was Crime.

"From this point of view, the wanton invasion of Belgium early in this war was a crime against Socialist principles of fundamental importance, it was, therefore, a blow at international law and good faith, the basis of whatever internationalism in world organization yet exists.

"As Internationalists we unequivocally assert the right of nations to defend themselves, their institutions and rights.

"As a corollary to that statement, we assert the right of Socialists to participate in such defense. Marx, Engle, Bebel, Liebknecht, and practically all the great founders and teachers of our movement, have taught this.

"We do not mean that Socialists must defend their nation in all circumstances. We have no tolerance for the false patriotism which cries 'My country, right or wrong,' nor for the equally false attitude that Socialists owe no loyalty to their nation, even when its cause is right and just.

"In some circumstances it might be a Socialist duty to defend some other nation against one's own. We believe it

was clearly the duty of the Social-Democrats in Germany to defend Belgium's sovereignty against their own government's brutal and lawless assault.

"NATIONS DO EXIST

"That nations exist is a fact. That they will long endure is certain. It may be that at some remote time there will be no separate nations. With that we are not concerned here and now. Our present interest lies in promoting good will and understanding among nations. We aim to develop in each nation friendship and respect for all other nations and a scrupulous regard for their rights. To bring about a federation of independent and free nations is the Socialist ideal.

"We accept the fine declaration of the martyred Jean Jaurès, that a petty nationalism leads away from internationalism; while a profound nationalism leads to internationalism, a profound internationalism leads to a profound nationalism.

"The theory of national rights which we have outlined leads to the question of the means of national defense. Admit the right of a nation to defend itself, and the right of the Socialists to join in that defense, and it follows that we must admit the right of the Socialists to create the means of national defense. National defense with broomsticks for armaments is impossible.

"MAY VOTE FOR ARMAMENTS

"To bind the representatives of our party not to vote for any kind of defensive armaments, regardless of existing circumstances, and to provide rules for expelling a representative of the party who voted for such armaments, no matter what the conditions, is indirect opposition to Socialist internationalism, and can only be explained as a surrender to a shoddy pacifist philosophy quite distinct from and unrelated to Socialism.

"This is not a concession to militarism, by which we mean the organization of the human and material resources of a nation primarily to serve military purposes. A defensive system of armament is not necessarily militaristic. 1852. This principal has been fully approved by our international Socialist Congresses, as, for example, at the congresses of

Stuttgart and Copenhagen. Acceptance of it does not commit us to any particular plan of military or naval preparedness which has been or may be proposed.

" BELIEVE IN DISARMAMENT.

" We unequivocally believe in universal disarmament as the central feature of the Socialist program on this question. But this does not mean that we believe that the democratic nations should disarm themselves, even when surrounded by armed autocracies. Such a course would be suicidal and worse. It would be retrogressive.

" If a Socialist Republic should result from the recent revolution in Russia, and the autocratic governments of central Europe should continue to exist, the democracy of Russia would soon be destroyed.

" Militarism menaces democracy in two ways; within a nation it imperils democracy in that nation; outside the nation militarism is, to a defenseless people, an equally serious menace, not only to democracy, but to national life itself.

" As Socialists, we are in general against war and in favor of peace. But we are not peace-at-any-price pacifists. We reject the doctrine of non-resistance, so-called, as contrary to Socialism and to sound morality. From the days of Marx and Engels our movement has stood for peace, because peace is normally to the interest of the working class movement and to the development of Socialism. But Marx and Engels clearly showed on many occasions, that wars might, in certain circumstances, be defended and even advocated on the ground that the interest of the working class movement and the development of Socialism would be furthered thereby.

" MARX URGED WAR

" It is worthy of note at this time that Marx opposed the pacifists of 1853 with great vigor, and waged an active propaganda to force England to make war on Russia. Marx was in favor of that war because he believed that it would stimulate political and economic Progress and the interests of the workers.

" The present war which broke out in the summer of 1914, had its origin in the economic conditions and the political

institutions and national ideals prevailing in Europe. Germany began the war, and rejected all attempts at arbitration, because of the peculiar conjunction of economic conditions and political institutions and national ideals characteristic of her national life.

"The die for war was cast by the triple powers dominating Germany — the autocratic monarchy, inspired by a great imperialistic vision, **the great military class and that section** of the capitalistic class closely associated with militarism.

"FOES OF SOCIALISM

"When this relentless triumvirate spurned the means of international arbitration which the Entente nations proposed, and followed that by the invasion of Belgium and the repudiation of all international agreements and organization, the attitude which Socialists must take toward it was determined for us. Whatever the avowed object of the war, or the real aim on either side, the Central empires had made themselves the particular enemies of democratic Socialism.

"From that point onward it was quite evident that the defeat of the Central empires would be conducive to civilization in general and international Socialism in particular.

"Throughout the war Germany has acted with brutal lawlessness and inhumanity, not only against her enemies, but also against peaceful and law-abiding neutral nations, including our own.

"All sane people, even Germans themselves, must acknowledge that the ruthless methods of warfare adopted by the German government are indefensible and intolerable. With wanton disregard of all human rights in the way of its military plans, Germany has tried to enthrone barbarism over civilization.

"The provocation to war, which this nation has borne with a patience and forbearance which will glow brightly in our history, has been great indeed. No nation with power to defend itself has, in modern times, endured so much.

"Recognizing this most clearly, we Socialists have, nevertheless, hoped that the nation might find it possible to stay out of war. We recognize the great period of active participation in the war to our national life. To the last moment we opposed war against Germany by this nation. More than

that, even now we urge that instead of raising a large army to be sent to Europe, the government should mobilize the economic resources of the nation and place the greatest possible amount of munition and food supplies at the disposal of France and Belgium.

"In this manner, we believe, the largest possible contribution to the defeat of Germany would be made, while, at the same time, our own nation would be saved from much bitter sufferings, from reaction and military rule over our civil life during the war, and from the heavy burden of a great military system.

"NO FIGHT FOR DEMOCRACY

"We do not believe that the entrance of the United States into the war at the late hour is due to a determination to fight for democracy, or for the independence of the peoples from autocratic rule. Our capitalist class has shown too great an interest in the war to make such a belief tenable.

"But even if it is conceded that the war of the United States against Germany has been brought on by the capitalists of this nation in their own interests, we must still desire that in the struggle this nation shall be victorious. Regardless of the capitalist motives involved, it is a fact that on one side are ranged the greatest autocracies in the world, the most powerful reactionary nations, while on the other side, are ranged the most progressive and democratic nations in the world. To this fact we cannot be indifferent.

"We do not, as Socialists, subscribe to the doctrine that once war has been declared in spite of our opposition, we must cease all opposition to it. We do say, however, that when, as in the present case, it is clear that the victory of one side as against the other would promote freedom and democracy, an intelligent application of Socialist principles to the existing situation leads inevitably to the conclusion that the interest of our movement requires the victory of that side.

"INDIFFERENCE AS TREACHERY

"To profess indifference to the result of the war now being waged, to desire either that the war end in a draw or in the defeat of the entente powers with which this nation is allied, is treachery to the principles of international Socialism.

"Furthermore, it is treachery to the democratic principles and institutions of America. The identification of Socialism with this disloyalty to the essential principles of Americanism would destroy every hope of ever winning the great masses of the American people to our cause. We assert that Socialism is not disloyal to the interests of this nation. Now that the war is an accomplished fact, for the reasons stated we hold that it is our Socialist duty to make whatever sacrifices may be necessary to enable our nation and its allies to win the war as speedily as possible.

"In accordance with this statement of the principles which we believe must guide the action of Socialists at this time, we recommend to our members and sympathizers the following program of action:

"Active agitation against the suppression of free speech and other popular rights, and to all the reactionary movements which arise in war time.

"URGES REFERENDUM.

"Agitation in favor of submitting the question of universal compulsory military service to a popular referendum vote of all citizens.

"The creation of public opinion to enforce the demand that conscription of wealth accompany any conscription of man for military service.

"Demand that for the purpose of paying for the war the United States Government shall sequester all incomes in excess of \$5,000 a year.

"Co-operation with the labor unions and other working class organizations in an organized effort to secure the popular democratic control of all governing bodies instituted for the war, and the representation of the labor unions in the direction of all industries which are or may be placed under government control.

"Limitation of profits in all private industrial and commercial enterprise.

"FOR RAIL OWNERSHIP.

"Government ownership of railroads, mines, industries upon which the efficient prosecution of the war, and the well-being of the civil population depend.

"Active efforts to promote the restoration of the Socialist international, especially to establish friendly intercourse with our comrades in enemy countries, with a view to co-operation in efforts to bring about a peace which will be to the interest of the international Socialist movement.

"Special activity to promote humane treatment of prisoners of war, and interned aliens, to oppose all violations of international law by this nation, and to limit the area and the terrors of war in all possible ways.

"Energetic action, through political and economic organization, to raise the income of the working class to meet the almost inevitable increase in the cost of the necessities of life.

"(Signed) JOHN SPARGO."

EXHIBIT 104.

"WAR DECLARATION BY U. S.

"No Fight for Democracies.

"Minority Report Declares Conflict is Result of Economic Forces.

"In this grave hour in the history of this country, we, the representatives of the Socialist Party of the United States, in special convention assembled, deem it our duty to place before the membership of the Socialist Party and the working class of America a succinct statement of our position on the questions involved, and to outline a program of action which we believe to be in the interest of workers in this country to follow.

"At the very outset, we desire to declare our unalterable opposition to all wars declared and prosecuted by any ruling class, no matter what the ostensible purpose. We believe that the interests of the great toiling masses cannot be served by any such war. And we particularly warn the working class against the snare and delusion of so-called defensive wars and wars for the alleged furtherance of democracy.

“ NO DANGER OF SUBJUGATION.

“ Modern wars are not — except under very exceptional circumstances — waged for the purpose of subjugating free peoples which have achieved such a degree of civilization as to have a modern working class as one of its competent elements and none of the great civilized nations are in danger of being subjugated by any other nation. There can, therefore, be no question — at least in so far as the great civilized nations are concerned — of any nation needing defense against actual subjugation. The defense needed — even in the case of a genuine defensive war — is almost always of some interest of the capitalist class, usually a trade interest or the right and privilege to subjugate or exploit some backward race or country.

“ In the few exceptional cases where the danger of actual subjugation may exist — the case of the few small civilized nations occupying a seacoast coveted by their stronger neighbors, the right of self-defense would be unavailing, and they would never dream of asserting it against one of the great powers, but for the help which they may expect from small nations, mere pawns in the game of world politics played by the big modern nations — a game in which the working class has nothing to gain and considerable to lose whenever it attempts to play it in partnership with its ruling class.

“ SOCIALISTS NOT INDIFFERENT.

“ This does not mean that we are indifferent to the independence of small nations; or to the right of all nations, great or small, to live their own life in their own way and to work out their own destinies. On the contrary—we feel very strongly on the subject. Socialism can only be brought about by the efforts of free men, and must be based on the fullest liberty of all races and nations.

“ But we believe and assert that the only security for the independence of small nations lies in the ethical concepts and economic interests of the revolutionary proletariat.

“ The same is true of the progress of democracy. We are not indifferent to the fate of democracy. On the contrary, we believe that the Socialist movement is particularly charged

with the duty of preserving and extending all democratic institutions. But we also know that the revolutionary working class is the only social force either willing or capable of doing it.

"NO FIGHT FOR DEMOCRACY.

"We deny that any of the nations engaged in this war fight for democracy, or that the ends of democracy in any way will be served by either side to the conflict winning a complete victory. This war is primarily the result of economic forces which have brought about the imperialistic era in which we live and of the general reactionary trend which is one of the most essential characteristics of this era. Modern imperialism is a world-wide phenomenon, although it may be more pronounced in one country than in another. Similarly, the reactionary trend which accompanies it is as broad as our 'civilization', for the time being, although in some countries it may assume more obnoxious forms than in some others. The only hope of democracy, therefore, lies in those revolutionary elements of each country which are ready to fight imperialism in all its manifestations and wherever found.

"The entry of the United States into this world-wide war does not in any way change the situation. On the contrary, it proves conclusively that no capitalist government, whether it is radical or republican in form, can be depended upon to fight for democracy, or, indeed, for anything but sordid capitalists' interests.

"When the great war opened with one of the most lawless and ruthless acts in history, the invasion of Belgium by Germany, an act not merely abhorrent in itself, but striking at the very root of those international arrangements for which we have contended so long and which must lie at the foundation of any international order that will put an end to all wars—the president solemnly enjoined upon the people of this country the duty of remaining neutral not only in deed, but also in thought. By that declaration, President Wilson officially and authoritatively announced to the people of this country as well as to the world at large, that the existence of international law, the dictates of humanity, the fate of small peoples, and of Democratic institutions, were matters that do not concern "us."

"The war of the United States against Germany cannot be justified even on the plea that it is war of defense of American rights or American "honor." Ruthless as the unrestricted submarine war policy of the German government was and is, it is not an invasion of the rights of the American people as such, but only an interference with the opportunity of certain groups of American capitalists to coin cold profits out of the blood and sufferings of our fellow men in the warring countries of Europe.

"NO WAR ON MILITARISM.

"It is not a war against the militarist regime of the central powers. Militarism can never be abolished by militarism.

"It is not a war to advance the cause of democracy in Europe. Democracy can never be imposed upon any country by a foreign power by force of arms.

"It is cant and hypocrisy to say that the war is not directed against the German people, but against the imperial government of Germany. If we send an armed force to the battle fields of Europe, its cannon will mow down the masses of the German people and not the imperial German government.

"Our entrance into the European conflict at this time will serve only to increase the toll of death and destruction and to prolong the fiendish slaughter. It will bring death, suffering and destitution to the people of the United States and particularly to the working class. It will give the powers of reaction in this country the pretext for an attempt to throttle our rights and to crush our democratic institutions and to fasten upon this country a permanent militarism.

"The working class of the United States has no quarrel with the working class of Germany or of any other country. The people of the United States have no quarrel with the people of Germany or of any other country. The American people did not want and do not want this war. They have not been consulted about the war and have had no part in declaring war. They have been plunged into this war by the trickery and treachery of the ruling class of the country through its representatives in the national administration and national congress, its demagogic agitators, its subsidized press, and other service instruments of public expression.

" We brand the declaration of war by our government as a crime against the people of the United States and against the nations of the world.

" In all modern history there has been no war more unjustifiable than the war in which we are about to engage.

" No greater dishonor has ever been forced upon a people than that which the capitalist class is forcing upon this nation against its will.

" (Signed)

LOUIS BOUDIN,

" KATE SADLER,

" WALTER BILLON."

(Adjourned to Wednesday, February 11, 1920, at 10:30 o'clock a. m.)

STATE OF NEW YORK — ASSEMBLY CHAMBER

In the Matter of the Investigation by the Assembly of the State of New York as to the Qualifications of Louis Waldman, August Claessens, Samuel A. deWitt, Samuel Orr and Charles Solomon to Retain Their Seats in Said Body.

THE CAPITOL,
ALBANY, N. Y., *February 11, 1920,*

Present:

Hon. Louis M. Martin,
Hon. George H. Rowe,
Hon. James M. Lown, Jr.,
Hon. Edmund F. Jenks,
Hon. Edward A. Everett,
Hon. William A. Pellet,
Hon. Edward J. Wilson,
Hon. Charles M. Harrington,
Hon. Harold E. Blodgett,
Hon. Theodore Stitt,
Hon. Louis A. Cuvillier,
Hon. Maurice Bloch,
Hon. William E. Evans.

Appearances:

For the Judiciary Committee:

Charles D. Newton,
Elon R. Brown,
Henry F. Wolff,
Archibald E. Stevenson,
John B. Stanchfield,
Arthur E. Sutherland,
Samuel A. Berger,
Thomas F. Carmody,
Martin Conboy.

For the Socialists:

Seymour Stedman,
S. John Block,
William Karlin,
Gilbert E. Roe,
Walter Nelles.

HON. LOUIS M. MARTIN, Chairman.

(The Committee met pursuant to adjournment at 10:40 A. M.)

The Chairman.—Proceed.

Assemblyman Cuvillier.—As a member of this Committee, speaking individually, I want to go on record as opposing the statement purported to be issued by Assemblymen Evans and Bloch, in which it is stated that they predict that the majority report of the Committee will recommend that the Socialists be reseated. On the astounding proposition that loyalty is a test. "It is a test dangerous to representative government because the question of what is or is not loyalty is an opinion subject to change. It has no definite standard. It is a test which gives the majority unusual and arbitrary power. Our government if in danger cannot be saved by the imposition of such tests."

I want to say myself, personally, that that might represent the opinion of those two gentlemen, if 50 per cent. Americans, but not 100 per cent. Americans.

The Chairman.—Proceed.

Mr. Block.—I wish to read into the record from the minutes produced by the attorneys for the Committee of the proceedings of the meeting of the Socialist Party, held at Park View Palace, 110th street and Fifth avenue, on November 7, 1919, from which the speech of Assemblyman Claessens was read. I wish to read the speech of Mr. Wilfred W. Humphreys who was introduced by the Chairman as follows:

This is reading from the exhibit already in evidence produced by counsel to the Committee; and I am reading this as part of the case of the Committee, and not as part of the case of the five Assemblymen upon which we have not as yet entered.

The Chairman.—Proceed.

Mr. Block (reading):

"Among those fellows is the comrade I am going to introduce as the next speaker. Comrade Humphries went to Russia to work for the Y. M. C. A.—you know what that stands for. It is not a revolutionary party (laughter). It does not approve of the Soviet form of government. This comrade working for the Y. M. C. A. went to Russia, lived

among the peasants, tried to help them in their sufferings there, watched for himself as the things were going on there, and then came to us and told us of his experience, of his observations.

"This comrade I am glad is here to tell us as to his 14 months' stay in Russia, of the Kerensky government—of Kerensky Russia and Soviet Russia, to tell us exactly what his experience and observations were, and it does bring out our belief and our trust in the present Soviet government, that they are going to make the Soviet government remain and stay, notwithstanding the fact that the allied governments are trying to crush it.

"I take great pleasure in introducing Comrade Humphries (applause).

"Wilfred W. Humphries.—Comrades and friends: I am glad to-night to join my voice with yours in rejoicing that Soviet Russia begins the third year of workingmen's control of that great country of Russia.

"It was my privilege to reach Moscow on the very first day of the Soviet regime, and to be in Moscow and Petrograd and Central Russia for eleven months thereafter. At Vladivostok, and all along the Trans-Siberian Railway, we were told of the terrible stories of the fleeing rich people, who begged us not to go in. Anybody wearing a white collar, or having a decent pair of shoes on his feet would surely be murdered. Thousands of people were dying of hunger and typhus and cholera. Three-quarters of Moscow was in flames. The sacred Kremlin was destroyed. People were fighting on the Nevsky-Prospect, with each other, for the flesh of dogs and horses that dropped dead on the streets—those were the stories that they told us. We believed the stories of food shortage, and packed hampers of beefs and dried ham and eggs and raisins, nuts, cheese, and other concentrated foods, and started on a 7,000 mile journey towards Moscow, and found all along the Trans-Siberian Railway that we could buy food from the peasant men who came down selling it at the stations. We did not draw on our reserve at all, and even in Moscow we found that it cost us no more to live, figuring at rate of exchange, than it had done in San Francisco at the time we left.

"I do not mean to say by that remark that there was no food shortage in Russia, whilst I was there, or that there is none now. I think you understand that, but we found that most of their stories were either false, or grossly exaggerated. The Kremlin had been damaged slightly, and the Nicholai Gate badly damaged. Instead of three-quarters of Moscow being in flames, five buildings had been burned, one of them being the jail (laughter). And instead of human life being so insecure, we found that we could walk about the city freely after midnight alone, without any fear at all. The first three or four nights that I had to be out late at night alone, I walked down the middle of the street and thought if anybody could come out from behind a dark building, I, at any rate, could use my cross-country running experience (laughter). But I saw women and girls coming out of those theatres at half past eleven at night, going home across the dark city, without any male escort; and you can imagine that I very soon lost my timidity (laughter); and most of the time I was there I was out late, probably six nights out of seven, because two or three nights a week I was going to night school learning Russian. You do not think of there being night schools in Soviet Russia, but there were; and other nights I was attending political meetings.

"I wanted to understand what was going on. I went to meetings of all the political parties, the Soviet Party, Socialists and Mensheviks and Bolsheviks, and Anarchists — the whole works.

"I was trying to understand what was going on, and I, of course, attended theatres. I actually attended more opera at Petrograd and Moscow under the Bolsheviks than at any other time in my life (laughter). Faust, Rigoletto, La Boheme, Mignon, Lakme and Maeterlinck's Blue Bird playing at the Art Theatre two weeks. I never got a ticket. It was so crowded (laughter). Plays by Ibsen, Bernard Shaw, Shakespearean Plays, plays by Tolstoy, Maxim Gorky, and many other writers — singing. There was vaudeville, motion pictures, excellent motion pictures, but I was surprised — I was astonished really at the artistic excellence of all of their theatrical performances. Of drama, and ballet and opera. The ballet was playing, the same Russian ballet was playing every Sunday night. I expected — I did not know

much about Russian art, and I rather supposed that it would be very crude, but on the contrary, I found it to be actually better than our own (laughter).

"Well, having some of those experiences and attending very many meetings of all kinds, being present at the third and fourth All Russian Congresses, hearing Trotsky and Lenine speak a good many times, meeting Lenine personally once, and meeting many members of the Cabinet, Alexander Korlandi, the woman member of the cabinet, and Tchitcherin Mortaff, and Boris Reinstein, the Secretary of the Socialist Labor Party in America, head of the Bureau of international Foreign Propaganda —

Mr. Block.— It should be Alexandra Kollantay.

Mr. Block.— (reading):

"Meeting all these people and attending all these meetings, and getting to know gradually what the Bolshevists stood for — why, I changed my mind (laughter).

"You know, before going to Russia — before going to Russia, I had seen in the American newspapers about these Maximilists that were rioting in the streets of Petrograd against Kerensky, and my sympathies were always Kerensky.

"I did not know really what these Bolshevists were — but I was against them (laughter); and I remember writing home the first week I was in Moscow, letters I wrote home, articles to my home town, papers and letters, that I would give a great deal to recall now — I spoke of the rumor that these Bolshevists were going to overthrow the Constituent Assembly, and I thought that frightfully undemocratic, and I said, 'He that takes the sword shall perish by the sword,' and all that sort of stuff; and if I had come home from Russia then, as many of the Y. M. C. A. secretaries did — they turned tail the moment they saw the Russian Army, hiking for home, killing any officers that tried to stop them, why, many of the 'Y's' secretaries themselves hiked for home very quickly (laughter).

"Well, if I had come home then, I would have told a story of bloodshed and disorganization and disruption and anarchy, and nothing else; but I did not come home then. I stayed in Soviet Russia for eleven months after the Bolshevists had taken control, and I travelled some twenty thousand miles, and

I had business relationship with over one hundred local Soviets for the American Red Cross, there being no Y. M. C. A. work being done, I was lent first to the American Committee on Public Information, and second, to the American Red Cross. For the American Red Cross I was colonizing Serbian refugees, 1,200 of them, for five months. I had to get food and clothing, shoes, land, plows, transportation — everything necessary to colonize 1,200 Serbian refugees; but before doing that job I was with the American Committee on Public Information, distributing Wilson's 'Fourteen Points Speech' (laughter). I do not wonder, Comrades, that you laugh (more laughter). But those Bolsheviks, those poor ignorant Russians, they laughed 15 months ago (laughter and applause).

"The speech was cabled to Petrograd and we got it translated into German and printed in large-sized posters — all printing presses controlled by the Soviet Government, by the way — they allowed us to do it, and a million copies were printed, and then my part of the job, together with Jerome Davis, was to get those million copies smuggled into the Austrian and German lines, during that period of fraternization that preceded the Brest-Litovsk Treaty; and to get them distributed we had to use the same channels of distribution that the Soviet Government was using. We found that what America was doing in the way of propaganda against Germany was but a drop in the bucket as compared with what the Soviet Government was doing. They were printing every day in Petrograd two German newspapers, with a combined circulation of 400,000 a day, one written for educated philosophical Germans; and the other for less educated Austrian peasants, with plenty of pictures, and they were sending those 400,000 a day by special trains to the northern, western and southwestern fronts, and getting them over the lines in various ways — aeroplanes and couriers and smuggling them over at night, and so forth.

"Well, they were willing to take our stuff. They helped us. We got 92 couriers, and sometimes they carried our stuff over in the Bolshevik airplanes, but this is what they said to us about it, they said, "Yes, very nice. Your 14-point Speech is a splendid enlargement upon our Russian formula, of no forcible annexations, no punitive indemnities, the

rights of all nations to self-determination; but we really believe that, and we want to put it into force now. That 14-point Speech that you have is only Wilson's words. Your President Wilson is an idealist, without a party back of him. When the time comes, the allied governments will never stand for those fourteen points.

"That was said by the simple English Russians more than eighteen months ago (applause).

"Well, that work and my colonization work brought me intimately into contact with the Soviet Government, and gave me opportunities to meet most of the members of the Council of People's Commissars, and to be present at some of these great gatherings, the Constituent Assembly, and three or four Congresses. I saw the vote taken on the Brest-Litovsk Treaty, and I had opportunity to see not only the destructive phase of the revolution, but the constructive.

"If I had come home after the first three or four months, I would have told you that the railroads were in a terrible chaotic condition, and they were.

"On our way into Russia, when we got to the Voladger, we saw a sign on a railroad to — 'There has been too much haste to get home from the Front. Please do not throw passengers out of the window after the train has started' (laughter).

"That sign was on a train just a few days before Kerensky was overthrown, at the time when ten million soldiers were scrambling to get home from the front. I do not know whether it was ten million, but it was a large number; and getting on to a Russian train in those days was getting into a catch-as-catch-can wrestling match. Nobody ever thought of buying a ticket, and soldiers were crowded into the coupés, sometimes twenty in a coupé designed for four. They were riding on the roofs and in the vestibules. They were going to the station masters and demanding engines for their trains at the point of a pistol and — well, there was just a state of anarchy; but by the time I left Soviet Russia, eleven months later, the principal trains were running dead on time, clean, lighted, heated, with regular ticket system, and with dining cars attached to some of the trains, managed by the Restaurant Workers' Union, and very well managed, too.

"Then the factories, as you know, were in a chaotic condition. In the beginning, productivity had fallen down in some factories to as low a point as 20 per cent. of what they produced before. I saw the figures for the first six months for the Soviet regime which show that the average was only 20 per cent.

"One thing characteristic about the Bolshevik is, their honesty for frankness. They did not camouflage, even to themselves; and you can rely upon their statistics, just as these many, many months passed, you know that you have been able to rely upon any news despatch that was sent by Bolsheviks' wireless from Moscow.

"The first news of the Denikan defeat of Kolchak, even, came from the Bolsheviks themselves, and a despatch from Kolchak a day or two later claiming victory, and the same thing with regard to their statistics of production. They do not show it in camouflage, and they show it in falling off. Of course, there was a good reason: Transportation, lack of raw materials and blockade, and all that sort of thing; but the significant thing is that the curve of production is up and not down. If you take the figures for the first eighteen months, they show an average of about 70 per cent., and apparently going up all the time.

"If I had time, I would tell you about the Supreme Council of Public Economy, and all its many ramifications, the way they have correlated the different nationalist industries, so that one industry will not be able selfishly to gain advantage. It would not be possible under the Soviet system for coal workers to hold up all the other industries of Russia for a higher wage than workers were getting in other industries. They managed to do away, practically do away with strikes without prohibiting strikes. They have the perfect freedom to strike, but such a system worked out, that an impasse is never reached.

"There is always a period of adjustment. Shop Committees having a dispute with the managers of a nationalized factory can take it up first with the managers, and if necessary they can carry it to a Regional Economic Council, and then farther to the Supreme Council, or they can take it up, if it is the coal in the Coal Miners' Union, and then to the Supreme Council, and in the last analysis authority would

rest with the Supreme Economic Council, which is made up of representatives from all of the industries of Russia.

"There are 69 members of that Supreme Council. Thirty came from the big industrial unions, one big union with each industry. Twenty came from the ten Regional Economic Councils, and seven from the Council of People's Commissars, and ten from the All-Russian Central Committee, representative of the different political parties, and two from the All-Russian Co-Operatives. That is a very representative body, and if any industrial dispute did finally reach that Supreme Council, and they rendered a decision, and the workers would not accept that decision, why, very obviously, then, the workers would be striking against all the people of Russia, against all the workers of Russia, and they would have absolutely no support in public opinion whatsoever.

"The point I make is that there is no impasse reached, and yet they do not prohibit or limit the right to strike. There is not time, however, to go into all the details of that.

"It is worth mentioning that for purposes of pay, they have classified all occupations into 27 groups, ranging from the young unskilled day laborer at the bottom, up to the skilled technical experts and executives at the top, with salaries ranging between 750 rubles, up to 3,000 rubles a month. That is a minimum for boys, we will say, boys entering industry, \$75 up to a maximum of \$300.

"Then I had opportunity to see what they were doing in cultural educational work and in social welfare. I saw their Palace of Maternity to which expectant mothers could go some two or three weeks before confinement and stay for some weeks afterwards. I talked with Madame Alexandra Kollantay, the brilliant woman of the Cabinet, the Minister of Social Welfare who had charge of that work. She has also charge of the one million orphan children that Russia has on her hands, the result of the war, and Alexandra Kollantay has abolished those large children's orphanages that were such death traps for children, where the children were very unhappy, and instead has taken large houses in good residential neighborhoods, to hold no more than 25 children. They take the children out of uniforms, dress them just as other children, and send them to public schools in the neighborhood, taking the taint of charity out of all those things.

"Another institution under her department is at Dyetskoye Syelo — you do not all know where Dyetskoye Syelo is — it used to be called Tzarkoye Syelo (laughter). Tzarkoye Syelo means Czar's village. There were the Czar's summer palaces surrounded by square miles of beautiful grounds. Today it is called Children's Village, and the sickest of Petrograd's and Moscow's children have been taken there, some two or three thousand. They are under the care of Madam Lunarcharsky, wife of the Minister of Education. They are the neglected orphans and wives and strayers of the streets, the children of the beggar women and the prostitutes that had been kicked and cuffed around the streets for a long time, and those children were gathered up and taken to this place, the 'Children's Village,' and they were feeding them and clothing them and educating them and giving them a good time.

"As you know Dyetskoye Syelo was occupied about three weeks ago by Eugenist troops, and there was a despatch in the Globe or Times, I think, expressing surprise that the palaces had been destroyed. Needless to say that article did not tell about this 'Children's Village.' They called it Tzarkoye Syelo. Whoever else goes hungry in Soviet Russia today, and many people in Petrograd are going hungry, I do not believe anybody is actually starving — they are pretty near it — nearly all of the people in Petrograd, I believe, are going half hungry, but the children are being fed. They are feeding them in the public schools, they are keeping many of the public schools open where they cannot possibly teach them because of lack of teachers at present, and lack of fuel to heat the buildings. They are still keeping those schools open for two reasons: To keep the children in the habit of coming, and to make sure that the children get at least one good hot meal a day. Further, last May 19th, the Soviet Government decreed that all children up to the age of 14 years of age should receive food rations free; and as you know, they made no distinction between bourgeoisie and proletarian children. They were all children.

"You remember after intervention, when due to the shortage of food, they had to classify the population into four groups, they put in the first group — get the most and the best food to children, whether of the bourgeoisie or the proletariat, and in that first class they put pregnant women and

nursing mothers. In the second class they put the Red Army and laborers doing heavy manual labor, and in the third class they put workers doing light office work, and in the fourth class, getting a very slim ration indeed — the bourgeoisie, living on savings rather than by work (laughter). But those people could always get out of the fourth class by going to work (laughter). They could join the privileged classes (laughter).

“I saw some of those people doing useful work, who had never done any work in their lives before. I saw a prince delivering a load of hay (laughter). I saw, whilst I was in Petrograd — Petrograd had the heaviest fall of snow that it had had for twelve years, and the Petrograd Soviet decreed that it had to be cleared on a certain fixed day, and every able-bodied person in the city had to take his share of clearing it, and nobody was to be allowed to hire anybody else to do his share, and we saw some curious sights on the streets that day (laughter). Sleek, fat-looking professors from the universities, and bankers and business men were wearing fur coats worth hundreds of dollars, were out in the streets handling pick and shovel.

“Some of those aristocrats used to wear their little finger nails half an inch long, signifying, I suppose, that they did no manual work, but that morning, before they could handle pick and shovel on the Nevsky-Prospect, with their soft hands, they had to get scissors and clip those nails (laughter). That is the time I drove along the Nevsky-Prospect, the last time that I left Petrograd.

“At the Nicholai Station, I saw three Russian officers. They had been officers — their decorations and epaulets were all ripped off. You could see the little holes where their shoulder straps had been. You know how proud and haughty these Russian officers used to be, how they used to scourge and whip peasant soldiers in the trenches, and shoot them down on the slightest provocation. Well, they were no longer haughty and proud. Those three officers that I saw were carrying passengers back into the trains (laughter) and one of them carried my suit case from the cabin (laughter).

“Now, I do not mean to say that the Bolsheviks have got all the brain workers down handling pick and shovel. Those happened to be just three or four of the more amusing

instances; but you would find in Soviet Russia to-day that brain workers are being given the opportunity to do the work that they can do best. Any man now who is willing to work can get work in Russia. One instance of that is contained in Bullitt's and Steffans' report. 'Did you notice that both William C. Bullitt and Captain Walter W. Pettit reported that commercialized prostitution in Petrograd, they said, had been almost abolished, because the economic reason for prostitution had disappeared.

"Now, when I first was in Petrograd, any night you could see at least 600 unfortunate women on the Nevsky-Prospect alone. Within a space of two and one-half miles, and according to the latest reports from Bullitt and Pettit and others, you would not to-night find six. The Soviet government found jobs for those girls, at good pay. Those that were healthy; those that were sick were obliged to take medical treatment; and by the way, the Soviet government medical authorities did not only go after the unfortunate girls — they went after the men too. Both women and men had to take treatment, and they did not hound one and not the other, as we do in our country; and for the more chronic case of disease, they provided a camp, some kind of a hospital camp, some miles outside of Moscow. There did remain a small residuum who would not take treatment and who did not accept work, and so forth, and they were French and Flemish and Austrian girls, and the Soviet government insisted that they either obey the rules, accept work, and so forth, or they were invited to leave the country, but that was only a very small number.

"Economic conditions whilst still pretty bad, at any rate allowed of any man working that wanted to work, and any girl working that wanted to work.

"The crime of the Soviet government in the eyes of the capitalists of the world, is that they seem to have thrown the exploiters on their backs, thrown the parasites away, and the parasites of the rest of the world seem to be desperately afraid that the workers of other countries will go out and do likewise" (applause).

Mr. Berger.—May I at this time after the reading of that rather interesting speech of Mr. Humphries' read in evidence an advertisement appearing in the New York Call on that very day.

November 7th. I am reading from the New York Call, November 7, page 3.

Mr. Block.— May I see that just a moment.

The Chairman.— That would be in the line of redirect examination, I suppose.

Mr. Berger.— Beg pardon.

The Chairman.— That would be in the line of redirect examination, I suppose.

Mr. Stedman.— Maybe we will let him call it part of our case.

Mr. Block.— Do you want me to read the advertisement?

Mr. Nelles.— That advertisement is already in evidence.

Mr. Stedman.— Read the advertisement.

Mr. Block.— “November 7, 1919,” this is being read at the request of the counsel for the Committee.

Mr. Berger.— Your voice is so much more resonant and eloquent than mine, read it.

Mr. Block.— (Reading):

“Second Anniversary Celebration to-night! Russian Soviet Republic. Park View Palace, 110th St., and Fifth Ave. Speakers Santeria Nuorteva, Secretary to the Russian Soviet Bureau; Wilfred Humphries, fourteen months in Russia with the Red Cross; August Claessens; Alexander Trachtenberg, Chairman. Special Feature: Singing of Russian revolutionary songs by a chorus of 60 voices, under direction of Louis Lochner. Admission free. Don't fail to attend this remarkable meeting. The Committee to combat reaction reminds all intending contributors that it wishes to speedily complete its special work. A special appeal is made to all Shop Chairmen having subscription lists to turn in as quickly as possible their list, together with the money collected on the same. We depend upon every list having at least something on it, as the need is great, and every dollar helps. Send contribution to Room 501, 7 East 15th Street, New York City.”

Mr. Block.— Mr. Chairman, I should now like to read in evidence the National Constitution of the Socialist Party which has been offered and marked in evidence earlier in the proceeding.

The Chairman.—What date is that?

Mr. Block.—This is the Constitution of 1917, as amended, however, by the Referendum which was recently concluded in the party which is in evidence, and I will read the Constitution and amendments as it has been passed and which is now in force.

The Chairman.—The ones which have been approved here recently.

Mr. Block.—Yes, sir. (Reading):

“No Present Preamble. Proposed Preamble.

“The Socialist Party of the United States is the political expression of the interests of the workers in this country, and is part of the international working-class movement.

“The economic basis of present day society is the private ownership and control of the socially necessary means of production, and the exploitation of the workers who operate these means of production for the profit of those who own them.

“The interests of these two classes are diametrically opposed. It is the interest of the capitalist class to maintain the present system and to obtain for themselves the largest possible share of the product of labor. It is the interest of the working class to improve their conditions of life and get the largest possible share of their own product so long as the present system prevails, and to end this system as quickly as they can.

“In so far as the members of the opposing classes become conscious of these facts, each strives to advance its own interests as against the other. It is this active conflict of interests which we describe as the class struggle.

“The capitalist class, by controlling the old political parties, controls the powers of the State and uses them to secure and entrench its position. Without such control of the State its position of economic power would be untenable. The workers must wrest the control of the government from the hands of the masters and use its powers in the upbuilding of the new social order—The Co-operative Commonwealth.

“The Socialist Party seeks to organize the working class for independent action on the political field, not merely for

the betterment of their conditions, but also and above all with the revolutionary aim of putting an end to exploitation and class rule. Such political action is absolutely necessary to the emancipation of the working class, and the establishment of genuine liberty for all.

“To accomplish this aim, it is necessary that the working class be powerfully and solidly organized also on the economic field, to struggle for the same revolutionary goal; and the Socialist Party pledges its aid in the task of promoting such industrial organization and waging such industrial struggle for emancipation.

“The fundamental aim of the Socialist Party is to bring about the social ownership and democratic control of all the necessary means of production—to eliminate profit, rent and interest, and make it impossible for any to share the product without sharing the burden of labor—to change our class society into a society of equals, in which the interest of one will be the interest of all.

“As subordinate and accessory to this fundamental aim, it supports every measure which better the conditions of the working class, and which increases the fighting power of that class within the present system.

“CONSTITUTION.

“ARTICLE I.

“Sec. 1. The name of this organization shall be the Socialist Party, except in such states where a different name has or may become a legal requirement.

“ARTICLE II.

“*Membership.*

“Sec. 1. Every person, resident of the United States, of the age of eighteen years and upward, without discrimination as to sex, race, color or creed, who has severed his connection with all other political parties and political organizations, and subscribes to the principles of the Socialist Party, including political action and unrestricted political rights for both sexes, shall be eligible to membership in the party.

“Sec. 1. (a) Political action within the meaning of this

section is participation in elections for public offices and practical legislation and administration work along the line of the Socialist Party platform to gain control of the powers of government in order to abolish the present capitalist system and the substitution of the Cooperative Commonwealth.

"Sec. 2. No person holding an elective public office by gift of any party or organization other than the Socialist Party shall be eligible to membership in the Socialist Party without the consent of his state organization; nor shall any member of the party accept or hold any appointive public office, honorary or remunerative (Civil Service positions excepted), without the consent of his state organization. No party member shall be a candidate for public office without the consent of the city, county or state organizations, according to the nature of the office.

"Sec. 3. A member who desires to transfer his membership from the party in one state to the party in another state may do so upon the presentation of his card showing him to be in good standing at the time of asking for such transfer and also a transfer card duly signed by the secretary of the local from which he transfers.

"Sec. 4. No member of the party, in any state or territory, shall, under any pretext, interfere with the regular or organized movement in any other state.

"Sec. 5. All persons joining the Socialist Party shall sign the following pledge:

"Application for Membership in the Socialist Party.

"I, the undersigned, recognizing the class struggle between the capitalist class and the working class, and the necessity of the working class organizing itself into a political party for the purpose of obtaining collective ownership and democratic administration and operation of the collectively used and socially necessary means of production and distribution, hereby apply for membership in the Socialist Party.

"I have no relations (as a member or supporter) with any other political party.

"I am opposed to all political organizations that support and perpetuate the present capitalist profit system, and I am opposed to any form of trading or fusing with any such organizations to prolong that system.

“ ‘In all my political actions while a member of the Socialist Party I agree to be guided by the Constitution and platform of that party.

“ ‘Upon the acceptance of my application for membership in the Socialist Party, I promise within three months, where-ever possible, to make application for citizenship.’

“Sec. 6. Any member of the Socialist Party, elected to an office, who shall in any way vote to appropriate moneys for military or naval purposes, or war, shall be expelled from the party.

“ARTICLE III.

“Sec. 1. (a) The affairs of the Socialist Party shall be administered by the National Executive Committee and national officials, the National Committee on Appeals, National Conventions and the general vote of the party.

“(b) The National Executive Committee shall be composed of seven members, elected by the National Convention at its annual sessions; not more than two shall be from one state. The Committee shall take office immediately following its election and shall hold office until the next regular convention, and until their successors shall have been elected.

“(c) The National Executive Committee shall be elected by secret ballot. The convention shall first elect seven members who shall constitute the National Executive Committee.

“(d) The Convention shall, by secret ballot, further elect seven additional members as alternates to the Executive Committee.

“(e) A majority vote of all the votes cast at the convention shall be required to elect either the members of the Executive Committee or alternates to the Executive Committee.

“(f) In case of a vacancy on the Executive Committee it shall be filled by one of the alternates in the order of the votes they received.

“Section 2. (a) Members of the National Executive Committee may be recalled by a referendum of the members of the party.

“(b) A motion for the recall of any or all members of the National Executive Committee may be initiated by any one local, and shall require the seconds of locals with a membership of at least 10 per cent. of the total membership of the party, located in at least five different states.

“(c) A motion to recall any or all members of the National Executive Committee shall be open for seconds for not more than 90 days, and shall be published in the party Bulletin.

“(d) If sufficient seconds are procured before the expiration of 90 days, the National Secretary shall send the referendum out immediately.

“(e) Motions for the recall of a member or members of the National Executive Committee failing to receive sufficient seconds during the time allowed for seconds shall be dropped and cannot be renewed again during the period of the service of the member or the Committee.

“(f) In submitting ballots to a vote on the recall of any or all members of the National Executive Committee, the local initiating the motion, and the member or members who are to be recalled, shall have the right to submit a statement giving the reasons for the recall or in the defense as the case may be, such statement not to exceed one thousand words. This statement to be submitted with the ballots for a vote.

“(g) If more than one member of the National Executive Committee is to be recalled, each member shall have the right to submit a statement of not more than 300 words, such statement to be submitted with the ballots for referendum vote.

“(h) The time for voting on referendum for the recall of members of the National Executive Committee shall be 60 days from the time the ballots were sent out from the National office, and all state, local or branch organizations must retain the individual ballots for at least six months, and must send them either to the state or National Office when demanded.

“(i) Only members in good standing who have been in the party at least six months can vote on the recall of members of the National Executive Committee.

“(j) Referendum for the recall of members of the National Executive Committee shall not be submitted if the National Convention is to meet prior, or within sixty days of the closing of the vote for the recall.

“Sec. 3 (a) The call for the regular election of members of the National Executive Committee shall be issued on the 1st day of January, 1918, and on January 1st of each odd

numbered year thereafter. Members elected in 1918 shall retire July 1st, 1919.

“(b) Forty days shall be allowed for nominations, twenty days for acceptances and declinations, and sixty days for the referendum. The candidates receiving the highest votes shall in each case be declared elected. The term of their office shall be for two years beginning on the first day of July.

“Sec. 4. Three years consecutive membership in the party shall be necessary to qualify for membership on the National Executive Committee and executive officials.

“ARTICLE IV.

“Sec. 1. The duties and powers of the Committee shall be:

“(a) To represent the party in all national and international affairs.

“(b) To call National Conventions decided upon by the referendum of the Party.

“(c) To make reports of the membership and condition of the party organization to National Conventions, with recommendations thereon.

“(d) To perfect and strengthen the organization and promote propaganda.

“(e) To formulate the rules and the order of business of the National Conventions of the party not otherwise provided for by this constitution, and subject to amendment and adoption by the conventions.

“(f) To receive dues and reports from state organizations.

“(g) To conduct the national referendums in the manner provided by this Constitution.

“(h) To supervise the work and transact all current business of the National Office.

“(i) To print the minutes of its meetings in the official organ.

“(j) To print in the official organ a specific statement of all moneys expended for printing leaflets and books, with titles and authors of the same.

“(k) To maintain in connection with the National Office such bureaus and departments as may be necessary.

"Sec. 2. Members of the National Executive Committee shall be eligible to serve as organizers. Any member may be appointed lecturer on courses arranged by the National Office and may be given temporary assignment for special party work.

"Sec. 3. The National Executive Committee, as required by the Federal Corrupt Practices Act, shall elect a permanent chairman who shall serve without salary.

"Sec. 4. The Committee shall formulate its own rules of procedure, not inconsistent with the provisions of this constitution.

"Sec. 5. Meetings of the National Executive Committee shall be held at least once every three months, except by unanimous consent.

"Sec. 6. The National Executive Committee shall be the custodian of all party property.

"Sec. 7. Members and officers of the National Executive Committee shall be subject to recall by the membership of the party through referendum.

"Sec. 8. The location of the National headquarters shall be determined by the National Executive Committee.

"Sec. 9. (a) No funds of the National Organization shall be appropriated by the National Executive Committee for any purpose not directly connected with the propaganda of Socialism or the struggles of labor. No more than \$100.00 shall be appropriated to any one organization other than a subdivision of the party; and no application for financial assistance coming from locals or other subdivisions of state organizations shall be entertained unless they have the endorsement of the state organization.

"(b) The committee shall not have power to appropriate funds, except for the current expenses of the National office, unless the party has sufficient funds on hand to meet all outstanding obligations, or unless the regular income will in the natural course of events cover such appropriations before the end of the current year. The committee shall make no appropriations directly or indirectly, for the support of any paper or periodical not owned by the National Office.

"Sec. 9. The National Office mailing lists of locals and branches and of subscribers shall not be given out to anyone outside the membership, nor shall they be given to members for private purposes. Appropriate portions of them may be

given to members and party officials at any time for purposes of organization, propaganda and renewals of subscriptions.

"Sec. 10. The National Executive Committee may publish and mail to every party member a weekly organization paper devoted exclusively to party activities.

"ARTICLE V.

"Executive Secretary.

"Sec. 1. The Executive Secretary shall be employed by the National Executive Committee. He may be removed at any time by the Committee or by referendum vote of the membership. He shall give bonds in the amount fixed by the committee. His compensation shall be fixed by the National Executive Committee.

"Sec. 2. The Executive Secretary shall have charge of all affairs of the National Office, including the employment of necessary help subject to the directions of the National Executive Committee. He shall supervise the accounts of the National Office and its departments.

"Sec. 3. The Executive Secretary shall cause to be published in the official organ of the party all important official reports and announcements; a monthly report of the financial affairs of the party; a summary of the conditions and the membership of the several states and territorial organizations and language federations; the principal business transacted by the National Officials and such other matters pertaining to the organization of the party as may be of general interest to the membership.

"ARTICLE VI.

"National Committee on Appeals.

"Sec. 1. (a) The National Committee on Appeals shall consist of seven members elected by the National Convention in the same manner as provided for the election of the National Executive Committee, not more than two shall be from any one state and no member or alternate of the National Executive Committee shall be a member of the National Committee on Appeals.

"(b) The committee shall meet immediately following the adjournment of the convention at which it is elected, and

shall organize by electing a chairman and secretary, the names and addresses of which shall be kept standing in the official organ of the party.

"Sec. 2. (a) It shall be the duty of the National Committee on Appeals to hear cases involving the revocation of charters, or suspension of organizations on appeal from the actions of the National Executive Committee and on no other matters.

"(b) The committee shall formulate its own rules of procedure not inconsistent with this constitution, or with a fair and impartial hearing of the matter before it.

"Sec. 3. (a) All acts of revocation of charters or suspension of organizations by the National Executive Committee shall have full force and effect on and after their adoption by the National Executive Committee, unless rescinded by the National Committee on Appeals.

"(b) The National Executive Committee shall have the right to appeal from any decision from the National Committee on Appeals to the next succeeding National Convention, but the decision of the National Committee on Appeals shall be final, unless rescinded by the National Convention.

Section 4. When a charter of an organization affiliated with the party is by action of the National Executive Committee revoked, or when an organization affiliated with the party is suspended from membership, such organization shall have the right to appeal to the National Committee on Appeals within 30 days after the decision of the National Executive Committee. All appeals must be submitted to the committee in writing, addressed to the secretary of the National Committee on Appeals, and a copy of the appeal sent to the National Executive Secretary. On the receipt of an appeal for a rehearing, the secretary of the National Committee on Appeals shall immediately arrange for a meeting of the Committee which shall be held within thirty days from the date the appeal was filed.

"ARTICLE VII.

"*Representatives in Congress.* Sec. 1. Members of Congress elected on the ticket of the Socialist party shall submit reports of their actions in Congress to the National Conventions.

"Sec. 2. In the support of all measures proposed by the Socialist party, they shall carry out instructions which may be given by the National Conventions, the National Executive Committee or by a general referendum of the party.

"Sec. 3. In all legislative bodies, as Congress, State Legislatures, Boards of Supervisors or Town Council, Socialist party members shall organize into a group separate and apart from all other parties. They shall elect a chairman and in the support of all measures definitely declared for in the platform of the party, they shall vote as a unit.

"ARTICLE VIII.

"*Conventions.* Sec. 1. There shall be a National Convention of the Socialist party each year.

"Sec. 2. The date and place of the regular conventions shall be fixed by the National Executive Committee.

"Sec. 3. The representation at regular National Conventions shall be one delegate from each organized state having a membership of 1,000 or less, and one additional delegate for every additional thousand members, or a major fraction thereof based upon the sale of dues stamps during the year preceding the National Convention.

"Sec. 4. In presidential years the National Convention shall be composed of 200 delegates to be apportioned among the states in the following manner:

"One from each state or territory and the remainder in proportions to the average national dues paid by the organization of such states or territories during the preceding year.

"Delegates to National Convention must be resident members of the state from which they present credentials, and must be members of the Socialist party for at least three years.

"Sec. 5. Railroad fare, including tourist sleeping car fare of delegates to and from the conventions, and a per diem of five dollars to cover expense, shall be paid from the National Treasury from a Special Convention Fund to be created by the sale to the members of a special Convention stamp.

"Sec. 6. These Special Convention Stamps shall be sold for fifty cents, and no member of the party shall be considered in good standing in the party on and after the con-

vention for which the stamp is issued, unless such stamp is attached to his or her membership book.

"Sec. 7. (a) Delegates to the National Convention shall be elected by referendum vote of the members.

"(b) The election of delegates to the National Convention shall, wherever possible, be completed not later than sixty days preceding the convention, and the respective state secretaries shall furnish the Executive Secretary with a list of accredited delegates immediately after said election.

"(c) The Executive Secretary shall prepare a printed roster of the accredited delegates to be sent to each delegate and forwarded to the party press for publication. Such list shall contain the occupation of each delegate at the time of his nomination and his office or employment in the party. All official reports required to be presented to the National Convention shall be printed and sent to each delegate elected at least fifteen days before the date of the Convention and furnished to the party press for publication.

"(d) At the time and place set for the opening of the National Convention, the Executive Secretary shall call the convention to order, and shall call the roll to ascertain the number of uncontested delegates, and they shall permanently organize the Convention.

"Sec. 8. The National Convention shall have the power to nominate candidates for President and Vice-President, to adopt a national platform, and to transact such other business as the convention may see fit. Vacancies on the national tickets shall be filled by the National Executive Committee.

"Sec. 9. All national platforms, amendments of platforms, and resolutions adopted by any national convention shall be submitted seriatim to a referendum vote of the membership. One-fourth of the regularly elected delegates shall be entitled to have alternate paragraphs to be submitted at the same time. Such alternative paragraphs, signed by one-fourth of such delegates, shall be filed with the Executive Secretary not later than one day after the adjournment of the convention.

"ARTICLE IX.

" *State Organizations.*

"Sec. 1. The formation of all state or territorial organizations or the organization of state or territorial organizations

which may have lapsed shall be under the direction of the Executive Committee.

"Sec. 2. No state or territory may be organized unless it has at least ten locals or an aggregate membership of not less than 200, but this provision shall not affect the rights of states and territories organized prior to the adoption of this constitution. When the membership of any state averages less than one hundred and fifty per month for any six consecutive months the National Committee may revoke the charter of that state.

"Sec. 3. (a) The platform of the Socialist Party shall be the supreme declaration of the party, and all state and municipal platforms shall conform thereto. No state or local organization shall under any circumstances fuse, combine or compromise with any other political party or organization, or refrain from making nominations, in order to favor the candidate of such other organizations, nor shall any candidate of the Socialist Party accept any nomination or endorsement from any other party or political organization.

"(b) No member of the Socialist Party shall, under any circumstances, vote in any political election for any candidate other than Socialist Party members nominated, endorsed or recommended as candidates by the Socialist Party, or advocate voting for them. To do so will constitute party treason and result in expulsion from the party.

"Sec. 4. In states and territories in which there is one central organization affiliated with the party, the State or territorial organizations shall have the sole jurisdiction of the members residing within their respective territories, and the sole control of all matters pertaining to the propaganda, organization and financial affairs within such state or territory; provided, such propaganda is in harmony with the national platform and declared policy of the party. Their activities shall be confined to their respective organizations, and the National Committee, its sub-committees or officers shall have no right to interfere in such matters without the consent of the respective state or territorial organizations.

"Sec. 5. (a) The state committees shall make monthly reports to the Executive Secretary concerning their membership, financial condition and general standing of the party.

“(b) During the months of January and July of each year, or at any other time required by the Executive Committee or by this Commission, the State Secretaries shall furnish the Executive Secretary a list of all locals affiliated with their respective state organizations, together with the number of members in good standing, and the name and address of the corresponding secretary of each local. Refusal, failure or neglect to comply with this section shall subject the state organization to suspension from the Socialist Party and deprive such state organization of participation in the affairs of the Socialist Party, and shall be a forfeiture of the right to representation in the National Executive Committee, the conventions and congresses of the party.

“Sec. 6. (a) The dues of the members to be paid to the Socialist Party shall be not less than \$1.50 a quarter, of which the National Office shall receive from the state organization thirty cents. The state organizations shall retain forty-five cents, and thirty cents to go to the County or City organizations in organized counties or cities. The State Organizations to sell quarterly dues stamps at the rate of \$1.05 in unorganized counties.

“(b) Only dues stamps issued by the National Executive Committee shall be affixed to members’ dues cards as valid receipts for the payment of dues.

“(Dues may be collected monthly where practical.)

“Sec. 7. (a) The National Office shall also issue to the state secretaries exempt stamps, both regular and special, free of charge, to be used by party members temporarily unable to pay dues on account of unemployment caused by sickness, strikes, lockouts or any other condition not within their control.

“(b) Any member desiring to use such exempt stamps shall make application therefor to the financial secretary of his local organization, and such application shall be passed upon by such organization. Exempt stamps shall be issued only to members in good standing who have paid dues for at least three months and who are by the same action exempt from the payment of dues to the state and local organization. The number of exempt stamps shall not exceed ten per cent of the total number of stamps obtained by the respective state organizations. The acceptance of exempt

stamps by any member shall in no way disqualify such member from any rights and privileges of party membership.

“(c) The National Office shall also issue a double perforated stamp to the State Secretaries to be sold at the same rate as the regular dues stamps.

“One half of such stamp to be affixed to the membership card of the husband and the other half to that of the wife. Husband and wife desiring to use such stamps shall make application to the financial secretary of their local, and such application shall be passed upon by such organization.

“Sec. 8. All state organizations shall provide in their constitutions for the initiative, referendum and imperative mandate.

“Sec. 9. No person shall be nominated or endorsed by any subdivision of the party for candidate for public office unless he is a member of the party and has been such for at least two years, except with the consent of the state organization. But this provision shall not apply to organizations which have been in existence for less than two years.

“Sec. 10. When a controversy exists in a state organization, the Executive Secretary shall continue to sell dues stamps to the Secretary recognized by him before such controversy is officially brought before him, until a state referendum has decided otherwise. He shall take no action except on petition of ten per cent of the locals (but not less than three locals), which must be located in different localities, appearing on the last official list filed with him by the State Secretary at least three months prior to controversy, and then only if there is doubt as to who is State Secretary. In such case he shall hold a referendum of those locals reported on the last official list to determine who is State Secretary. The individual signed ballots in such referendum shall be sent to the Executive Secretary.

“ARTICLE X.

“Delegates to the International Congress and the International Secretary shall be elected by the National Convention. There shall be one delegate for every 20,000 members, ascertained by computing the average membership for the preceding year.

"Members to be eligible must have been members of the party for at least three years at the time of their election. The expense of the delegates and a per diem equal to the per diem fixed for delegates to the National Convention shall be paid from the National Treasury.

"ARTICLE XI.

" Foreign-Speaking Federations

"Sec. 1. Five branches of the Socialist Party working in any other language than English shall have the right to form a National Federation under the supervision of the Executive Secretary and the Executive Committee.

"Sec. 2. Such National Language Federation shall have the right to elect an officer known as Translator-Secretary, who shall be conversant with his own language as well as the English language, and whose duty it shall be to serve as a medium of communication between his Federation and the National Organization of the Socialist Party.

"Sec. 3. When such National Language Federation shall have at least 1,000 members, their Translator-Secretary shall be entitled to necessary office room in the National Office, and to a salary from the National body not to exceed \$28.00 per week, not to be less than \$15, the exact sum to be fixed by the Executive Committee of the Socialist Party. Such Translator-Secretary must be at least three consecutive years a member of the party, except when his federation has not been affiliated with the party that length of time. When any Language Federation is reduced to 1,000 members the rights of that Language Federation to office room and salaries shall be suspended at the discretion of the Executive Committee.

"Sec. 4. Language Federations shall pay to the National Office the same sum monthly per capita as paid by the state organizations, receiving in exchange therefor dues stamps. They shall also pay through the Translator-Secretary to the regular State and County or City organization fifty per cent of the dues paid by the English speaking branches.

"The Translator-Secretary shall pay monthly to the respective state secretaries the quota of all monthly dues paid by the branches of his Federation in the state. The State Secretary shall forward the County dues to the respective county secretaries, wherever there is an organized county.

"Sec. 5. (a) Branches of Language Federations shall be an integral part of the county and state organizations, and must in all cases work in harmony with the constitution and platform of the state and county organizations of the Socialist Party.

"Language branches, not affiliated with a federation of their respective language, shall work in harmony with such Federation, restricting their work within the territorial jurisdiction of such branches. In no case, however, shall such branches indulge in or permit their members to carry on work against the interests of the Federation. Federations shall not be permitted to organize additional branches within the territorial jurisdiction of branches not affiliated with them, except with the consent of the state organization. The charter of any language branch not affiliated with a Federation, that condones or conducts work aiming at the destruction of a Federation, shall be revoked by the State Organization in accordance with the method of procedure provided by the constitution of the State organization. When the charter of such branch is revoked, such of its members who will agree to refrain from similar objectionable work in the future shall be organized in a new branch. But no member of a branch the charter of which has been revoked for the offense mentioned above, shall be denied admission to the new branch, if a statement is signed obligating himself to work in harmony with the provisions of this section.

"(b) A Language Federation may, if its constitution so provides, exclude for cause any of the branches or local affiliated with it. Such excluded locals and language branches shall lose only the rights and privileges dependent upon affiliation with the Federation. They shall continue to be an integral part of the County and State organizations until such time as the exclusion has been approved by the County and State organizations.

"Members of a federation cannot be suspended or expelled from the party by the Federation or by any of its subdivisions, the power to suspend or expel members from the party being vested exclusively in the County and State organizations. The accused members shall be accorded a fair trial in the manner provided by the County and State Constitutions or local by-laws.

"Members of a Federation can be suspended from membership in any of its subdivisions by the subdivision to which the member belongs, for work detrimental to the welfare of Federation involved. Such suspended members unless the suspension has been approved by the County and State organizations, shall continue to be members of the party, and the County and State organizations shall either attach them to some other local or branch, or recognize them as members-at-large.

"Sec. 6. All propaganda work of the Language Federations shall be carried out under the supervision of their executive officers according to the by-laws of the federations. Such by-laws must be in conformity with the constitution of the Socialist party.

"Sec. 7. Each Translator-Secretary shall submit a monthly report of the dues stamps sold during that period to the National and State offices. He shall make every three months, also, a report of the general standing of his Federation to the National office.

"Sec. 8. The National Party shall not recognize more than one Federation of the same language.

"Sec. 9. Each National Federation shall be entitled to elect one fraternal delegate to the National Conventions of the party; provided, that such delegate shall have a voice but no vote. He shall receive railroad fare and per diem from the party the same as regular delegates.

"ARTICLE XII.

"Sec. 1. Motions or resolutions to be voted upon by the entire membership of the party except proposed amendments to the National Constitution and the recall of the National Executive Committee shall be submitted by the Executive Secretary to the referendum vote of the party membership upon the request of the locals representing at least five per cent of the entire membership on the basis of dues paid in the preceding year.

"Sec. 2. Each motion and resolution shall be printed in the Official Bulletin and remain open ninety days from the date of first publication, and, if it has not been received the requisite number of seconds, it shall be abandoned. The vote on each referendum shall close 60 days after its submission.

"Sec. 3. Referendums shall be submitted without preamble or comment. But comment not to exceed 200 words both for and against may accompany the motion when printed.

"Sec. 4. Only members of the party in good standing and who have been members of the Socialist party for at least six months can vote on National Referendums. (Ballots for National Referendums shall contain a line where members can state as to their length of membership in the Socialist party.)

"Sec. 5. Any officer who attempts to interfere with the processes of the membership shall be expelled from office.

"Sec. 6. Whenever a motion, resolution or an amendment has been regularly initiated and passed upon by the party membership, another motion that conflicts with the same, shall not be considered for at least six months.

"ARTICLE XIII.

"The National Executive Committee shall employ a director for propaganda and education among the young. The director of propaganda among the young shall organize and co-operate with the existing Young People's Socialist Organization for the extension of Socialist propaganda and education among the young people.

"ARTICLE XIV.

" *Amendments.*

"Sec. 1. This constitution may be amended by a referendum of the party membership; amendments may be proposed by the National Convention, upon the request of locals representing at least 8 per cent of the entire membership on the basis of dues paid in the preceding year. All such amendments to be submitted seriatim to a referendum vote of the party membership.

"The term 'local' as herein used shall be construed to mean a local or branch of a local, but not a body composed of delegates from branches or locals.

"Sec. 2. All amendments shall take effect 60 days after being approved by the membership."

Mr. Block.— That concludes the National Constitution.

Assemblyman Evans.— On page 2189 of the mimeographed minutes of the proceedings of this day, I notice that Assemblyman Cuvillier made a statement on the record to the effect that Assemblyman Bloch and myself had issued a statement to the public press predicting the result of this Committee's report. The statement of Mr. Cuvillier is untrue. I never made such a prediction either to the public press or to anyone. If the gentleman who made this statement on page 2189 of the record had understood what he read in the public press, he would not have made the statement on the record which he did.

Assemblyman Cuvillier.— I still maintain what I said.

The Chairman.—Adjourned until 2 o'clock.

Mr. Stedman.— For the convenience of counsel on the other side, after concluding reading what we have here, I shall ask for a postponement until Tuesday; but I do not think we will conclude possibly until in the morning, with what we feel we can put in, if that will be of any convenience to counsel.

The Chairman.— Tomorrow morning?

Mr. Stedman.— I think we can conclude by tomorrow, possibly today; and then make a motion to strike out; and then at the conclusion of that, I think we will expedite matters by adjourning until Tuesday, so that we can organize our defense. I mention that now because some of the counsel for the Committee may wish to leave perhaps.

The Chairman.— I might say that if Mr. Stedman desires an adjournment of the proceedings until Tuesday, I shall be very glad to grant it.

Mr. Stedman.— Then I shall say to counsel that we shall simply fill in with as much reading as we can of formal matter, detail matter, and then adjourn until Tuesday.

Mr. Conboy.— Is it possible that you can finish that this afternoon?

The Chairman.— If not, we will sit tomorrow.

Mr. Stedman.— I think it is possible we will finish.

The Chairman.—Adjourned until two o'clock.

(Whereupon, at 11:55 A. M., a recess was taken until 2 P. M.)

AFTER RECESS, 2:10 P. M.

Mr. Block.— I now read into the record the State Constitution of the Socialist Party of the State of New York, and the Socialist Party Constitution of New York County.

(The State Constitution of the Socialist Party of the State of New York is as follows):

"State Constitution of the Socialist Party of the State of New York.

"ARTICLE 1.

"Organization.

"Name. Section 1. The Socialist Party of the State of New York is a part of the national organization of the Socialist Party of the United States, and shall be governed by the platform, constitution and resolutions of said party.

"Locals. Sec. 2. The state organization shall consist of all present local organizations of the Socialist Party, within the State of New York, and of all such as may hereafter be organized within the State.

"Formation of Locals. Sec. 3. Five or more persons within a town, city or village, in which no local of the party is in existence, may form a local of the Socialist Party upon declaring their adherence to the national and state platforms of the party and their readiness to conform to the national and state constitutions of the party.

"Applications for Charters. Sec. 4. Applications for the formation of such locals shall be made to the State Committee, and shall be accompanied by a list of the names, addresses and occupations of the proposed members and an initiation fee of 10 cents for every member.

"Semi-Annual Reports. Section 5. (a) Each local shall send every three months a statement showing its numerical strength and financial condition, also its progress and prospects, and shall report the names and addresses of members to the State Committee.

(b) Each local shall send every month to the State Committee a report containing the names and addresses of the members admitted during the month.

"Local By-Laws. Sec. 6. Locals or County and General Committees of said locals may adopt by-laws to govern their

own proceedings, but such by-laws shall not be in conflict with the national or state constitution. A copy of the same shall be forwarded to the State Committee.

“Officers of Locals. Sec. 7. Every local shall elect from its membership the following officers: An Organizer, a Recording Secretary, a Financial Secretary, a Treasurer, a Literature Agent and such other officers as it may find necessary. The Organizer shall act as Corresponding Secretary unless otherwise provided by the local.

“Members in Locals. Sec. 8. A qualified applicant residing within the territorial jurisdiction of a local may become a member by filing with the secretary of such local the application for membership, provided that the application shall be read at the next regular meeting of the local and accepted.

“Members at Large. Sec. 9. A qualified applicant residing outside of the jurisdiction of any local may become a member at large by filing with the State Secretary his application for membership, subject to the approval of the state Executive Committee, and the payment of an initiation fee of ten cents, and the payment of six months' dues in advance at 15 cents per month.

“Objections to Admission of Members. Sec. 10. Should objection be made to the admission of any applicant for membership, two-thirds of the membership of the Local voting shall be necessary to admit.

“Membership Cards and Constitutions. Sec. 11. There shall be issued to each member on admission, a membership card in the form prescribed by the State Executive Committee. Such card to be signed by the Financial Secretary of the local of which the applicant becomes a member, by the State Secretary. With the membership card each member shall receive a copy of the state and national constitutions.

“Transfer of Members. Sec. 12. (a) In case of removal of a member from the jurisdiction of one local to that of another, his membership card showing payment of dues to date shall be taken as prima facie evidence of his qualifications to membership in the latter local, when submitted with transfer card duly issued by the Financial Secretary of the local or branch that he is leaving.

"(b) The State Committee shall provide locals or branches with transfer cards. No others than those provided by the State Committee shall be recognized.

"*Suspension and Expulsion.* Sec. 13. (a) A member may be expelled from the party, or may be suspended for a period not exceeding one year for the following offenses:

"(b) For supporting or aiding in the election of a candidate for any office, in either a primary or final election, of **any other than the Socialist Party**, or in opposition to the regularly selected candidates of the Socialist Party.

"(c) For accepting the endorsement of a party other than the Socialist Party.

"(d) For the larceny, embezzlement or corrupt misappropriation for his own use or benefit of party funds.

"(e) For accepting or holding any appointed position, under a non-Social administration, except a civil service position or a position to which the Socialist Party is entitled under the law.

"(f) For failing or refusing, when elected to a public office or while acting as a delegate to an official party convention, to abide and carry out such instructions as he may have received from the dues paying party organization or as prescribed by the state or national constitutions.

"(g) For the wilful violation of any provisions of this constitution.

"*Appeals from Decisions.* Sec. 14. (a) An expelled or suspended member shall have the right to appeal to the State Committee against such suspensions or expulsion. When appeals are filed with the State Committee, and the results of the investigation, together with the recommendations of the State Executive Committee, shall be submitted to a vote of the members of the State Committee for approval or rejection.

"(b) The action of the State Committee shall be final unless an appeal is filed for a referendum vote of the membership of the entire state; notice of such appeal, however, shall be filed not later than 15 days after the receipt of the verdict of the State Committee.

"(c) An expelled or suspended local shall have the right to appeal to the entire membership of the state by the referendum vote. Such appeal must be made within 15 days

after the decision of the State Executive Committee has been declared final, or approval of by the State Committee.

"Revocation of Charters. Sec. 15. The charter of any local may be revoked for the following reasons:

"(a) For wilfully adopting and adhering to a constitution or platform in violation of the national and state constitutions of the Socialist Party.

"(b) For aiding in the nomination to any political office of any person not a dues-paying member of the party.

"(c) For failing to support all regular nominees of the Socialist Party.

"(d) For failing to prosecute, and if found guilty, to punish a member for a violation of the provisions of the state and national constitutions.

"(e) For failing to remit for dues to the State Committee for three consecutive months, provided, however, that notice of the intention to revoke such charter shall be given the local at least thirty days in advance.

"CHARGES — APPEALS.

"Proceedings, How Instituted and Prosecuted. Sec. 16.

(a) Proceedings against a local for violation of any section of this or the national constitution shall be instituted upon a written complaint, signed by at least three (3) members of the party in good standing, or by the State Secretary. Said complaint shall state specifically and clearly the nature of the offense or offenses, with which the local is charged.

"(b) The written charges shall be filed with the State Executive Committee, which is to appoint at its discretion a committee to investigate the said charges. The State Executive Committee shall report the findings of this committee with their recommendations to the State Committee. If no objections to the recommendations of the State Executive Committee from a member of the State Committee is filed with the State Secretary within 15 days, such recommendation shall be the final decision of the State Committee.

"(c) In case of an objection on the part of any one member of the State Committee (the members of the State Committee from the local under charges not included) it shall be submitted to a vote of the entire State Committee.

" (d) Proceedings against a member for the commission of an offense shall be instituted only upon a written complaint signed by a member in good standing; said complaint shall state clearly the offense or offenses with which the member is charged.

" (e) The written charges shall be filed with the Secretary of the local who must read the same at the next meeting. The charges may be tried either by the entire local, or by a committee elected for the purpose. The verdict or recommendation of such committee shall be submitted to the local for final ratification.

" *Local Meetings.* Sec. 17. Each local shall hold a regular business meeting at least once a month.

" *Central Committees.* Sec. 18. In any local which is divided into two or more branches, all business of the local with the party's National and State Committees shall be carried on by a central Committee.

" *Charters.* Sec. 19. (a) Not more than one charter shall be granted to any city, unless such city consists of more than one county, in which case one charter shall be granted to each county organization.

" (b) More than one charter may be granted to such county with the consent of the existing organization.

" *County Committees.* Sec. 20. All counties composed of two or more locals shall organize County Committees composed of three or more delegates from each local in the county; such County Committees to work toward unifying the agitation and organization in the county, and especially assist in organizing the unorganized territory of their respective counties.

" *Members in Arrears.* Sec. 21. (a) Members who are in arrears in the payment of their dues for more than three months shall stand suspended from all membership rights until they have paid up such arrears.

" (b) Members in arrears in the payment of their dues for more than one year may be dropped from the membership roll of the local.

" *Exemption from Dues.* Sec. 22. On application to their local, sick or unemployed members shall be excused from payment of dues.

" *Names and Addresses of Officers.* Sec. 23. Upon the election of new officers, locals shall notify the State Committee

within 10 days after such election, giving the names and addresses of such officers.

“Candidates and Fusion. Sec. 24. Under no circumstances shall the state or local organization cooperate with any other political party, or independent organization organized to advance the interests of a candidate for public office; and no local shall nominate any one as a candidate for public office who has not been a member of the party for at least two years, except locals which have been in existence less than two years.

“ARTICLE II.

“Administration of State Organization.

“Conduct of Affairs. Sec. 1. The affairs of the organization shall be conducted by the State Committee, State Executive Committee and the general vote of the members.

“State Committee. Sec. 2. The State Committee shall consist of one member from each organized county in the state, and one additional member for every five hundred members in good standing; same to be based on the due stamps bought by the local or locals in such counties during the year ending in the month of September.

“Election. Section 3. The members of the State Committee shall be elected and may be recalled and their successors chosen by referendum vote of the members of the local or locals in the county. In cases, however, when one local covers the whole county and conducts its business through a county committee, such county committee shall have the power to fill vacancies, and shall also have the power to suspend State Committeemen, but shall immediately submit such suspension to a referendum of the members in the county. The members of the State Committee must be members in good standing for at least two years, except in the counties not organized for that period of time.

“Term of Office. Sec. 4. The members of the State Committee shall be elected in the month of December for a term of one (1) year. The term of office to begin in the month of January.

“Duties of State Committee. Sec. 5. (a) The State Committee shall meet on the second Sunday in April, except in years when a State Convention is to be held, and it shall then meet at the same time and place with the Convention.

The expenses of State Committeemen in attending these meetings shall be paid out of the Treasury of the State Committee.

“(b) The State Committee shall have the power to review and revise the actions of the State Executive Committee. The Platform Committee, Committee on Rules and all other important committees of the State Convention shall be elected by the State Committee at its meeting prior to the State Convention, and these committees to be so appointed shall render reports of their work through the party press not later than two months prior to the date set for the State Convention.

“(c) At its annual meeting the State Committee shall elect a State Secretary.

“(d) The State Committee shall call the State Conventions of the party.

“(e) Any three members of the State Committee, other than members of the Executive Committee, may initiate a motion which shall be submitted to a vote of the State Committee.

“(f) The State Committee at its annual meeting shall determine the location of the State Headquarters.

“*Composition of State Executive Committee.* Sec. 6. The State Executive Committee shall consist of nine members of the party, elected by the State Committee at its annual meeting. Nominations to be made by the State Committeemen at least one month prior to the annual meeting, and a list of those accepting the nominations shall be sent to the State Committeemen in advance of such meeting.

“Vacancies shall be filled by the State Committeemen voting by correspondence. Members of the State Executive Committee must have the same qualifications as required of members of the State Committee.

“*Duties of State Executive Committee.* Sec. 7. The State Executive Committee shall have immediate charge of the work of organization, agitation and campaign throughout the state; shall elect a treasurer and such other officers as may be deemed necessary for the proper transaction of its business; pass upon all applications for charters; furnish to locals the monthly due stamps bought of the National Committee, at the price of ten cents each; furnish to locals quar-

ter-annual report blanks. It shall meet at least once a month, and carry on a general correspondence between the locals and the state organization; and its meeting not later than 30 days before a State Convention shall appoint a Committee on Rules; prepare and present to the State Convention a draft of a platform for the action of the convention. To prepare the order of business for the State Convention and have same published in the party press at least two months prior to the date set for the holding of the same.

"Report of State Executive Committee. Sec. 8. The State Executive Committee shall furnish reports of its meetings and actions taken thereon to the State Committee after each meeting. Upon the demand of two members of the State Committee, other than members of the State Executive Committee, made within 15 days after submission of report, any act of the Executive Committee must be submitted to a vote of the State Committee. The minutes of the State Executive Committee shall be sent to all the members of the State Committee for their approval, and unless objections are raised within 15 days after their submission, all actions contained therein shall stand approved.

"Quorum. Sec. 9. Five members of the State Executive Committee shall constitute a quorum for the transaction of business.

"Vacancies. Sec. 10. Any member of the State Executive Committee absent for three consecutive meetings of the committee shall have his seat declared vacant.

"Rules of Procedure. Sec. 11. The State Committee and State Executive Committee shall adopt their own rules of procedure not inconsistent with this constitution or the national constitution of the party.

"State Secretary — Duties. Sec. 12. The State Secretary shall be the executive officer of the State Organization. His duties shall include the following:

"(a) Have charge of the State office and all records or documents.

"(b) He shall be ex-officio member of the State Executive Committee and in this capacity shall receive and receipt for all moneys of the organization, and pay out the same in the discharge of current expenses and obligations duly authorized.

"(d) He shall submit quarterly a written financial report to the members of the State Committee, and annual reports to all locals.

"(e) He shall submit his books to the Auditing Committee every three months, or whenever called upon either by the auditing committee, State Committee, or State executive committee.

"(f) Turn over to his successor in office all books, papers, money or any other property belonging to the State Committee, which may have been in his possession.

"(g) He shall have charge of and supervise the work of the State organizers and speakers, subject to instruction from the State Executive Committee.

"(h) He shall be authorized to employ the necessary clerical help, subject to the approval of the State Executive Committee.

"(i) He shall perform such special duties as may be prescribed by the State Committee or State Executive Committee.

"Auditing Committee. Sec. 13. An Auditing Committee of three members shall be elected for a term of one year by the State Executive Committee, whose duties shall be to audit the accounts of the State Committee every three months or whenever called upon by the State Committee or State Executive Committee, a copy of such audited report to be sent to every member of the State Committee and to the locals.

"ARTICLE III.

"State Conventions.

"Regular Conventions. Sec. 1. Regular State Conventions of the party shall be held in all years when a Governor of the state is to be elected.

"Special Conventions. Sec. 2. Special conventions may be called whenever decided upon by a general vote. The question of calling a special convention may be submitted to a general vote of the membership by the State Committee on its own motion and shall be submitted upon the demand of any three locals located in three different counties.

"Representation. Sec. 3. At all state organization conventions the representation shall be by locals, each local being entitled to one delegate for every one hundred members in

good standing to be determined by the number of due stamps purchased during the six months preceding the call for the election of such delegates.

“Delegates to the state convention must be members of the party for at least two years, except from locals which have not been organized for that period. They must also be members of the county which they are to represent.

“*Political Convention.* Sec. 4. All statutory political conventions where the work of the convention has been prescribed by referendum, convention or committees of the dues-paying organization, shall be held at the seat of the state organization, and the State Executive Committee may direct that the delegates near or at the seat of the State Headquarters shall constitute a quorum at such conventions and shall assemble and hold such convention as the law provides.

“*Delegates' Expenses.* Sec. 5. The railroad fare of the delegates in going to or from the place of convention shall be paid from the treasury of the state organization. The fund for this purpose shall be raised by a per capita assessment on the membership, or in such other manner as the State Committee shall find expedient.

“ARTICLE IV.

“*National Committeemen.*

“*Election.* Sec. 1. The locals in the State of New York shall elect by referendum vote in the month of January each year, such number of representatives of the National Committee of the party as the state may be entitled to, provided, however, that not more than one member shall be from the same local.

“To qualify as a candidate for National Committeeman, such candidate shall be nominated by not less than two locals in two different counties.

“*Term of Office.* Sec. 2. The election of National Committeeman shall be conducted by the State Committee, and the National Committeeman elected shall hold office for the term of one year and until their successors are elected.

“*Vacancies.* Sec. 3. Any vacancies occurring in the offices of National Committeemen shall be filled by a referendum vote without delay.

“Written Reports. Sec. 4. The National Committeeman shall make a written report to the State Committee in the months of January, April, July and October of each year, and to the state convention whenever it meets. The seat of any National Committeeman who shall fail to make reports for two consecutive quarters shall be declared vacant and new election ordered.

“Instructions. Sec. 5. The State Committee or State Executive Committee may call upon the National Committeemen at any time to appear before it to discuss such questions as the committee deems important, and the decisions arrived at by majority vote of the committee shall be binding upon the National Committeemen and they shall vote as instructed.

“ARTICLE V.

“Amendments.

“Method of Amending this Constitution.—Any amendment of this constitution shall be submitted to a general vote upon motion of the State Committee or upon demand of at least three locals in three different counties.

“ARTICLE VI.

“Referendums.

“When Taken. Sec. 1. The State Committee or three or more locals in three different counties with at least five hundred members may demand a referendum vote on all questions.

“Demands on Referendum. Sec. 2. A demand for a referendum vote made by a local must stand open for six weeks for two locals to second it. If no endorsement is received from two locals within the specified time such motion shall be null and void.

“Sec. 3. All referendum votes shall be open for six weeks for locals to vote, and no extension of time shall be made by the State Committee.

“Sec. 4. It shall be the duty of the State Secretary to submit every proposed referendum to the locals within three weeks after it has been duly initiated.

“ARTICLE VII.

“ *National Conventions.*

“*Method of Election and Apportionment of Delegates.* The election of delegates to national conventions of the party shall be through the county organizations. The number of delegates to be apportioned by the State Committee in proportion to the membership in the county organization.

“ARTICLE VIII.

“ *Miscellaneous Regulations.*

“*Resignation of Candidates and Appointees.* Section 1. All candidates for public office or appointees for public office selected by the dues paying membership of the Socialist Party of the State of New York or any of its sub-divisions shall sign the following resignation blank before nomination is made official, or appointment is made final.

“*Form of Resignation.* Sec. 2. Recognizing the Socialist Party as a purely democratic organization in which the source and seat of all powers lies in the dues-paying membership, as an elected (or appointed) official of the party it shall be my duty to ascertain and abide by the wish of the majority of the dues-paying members of my local or political sub-division.

“To the end that my official acts may at all times be under the direction and control of the party membership I hereby sign and place in the hands of Local——to which I may be elected (or appointed), such resignation to become effective whenever a majority of the local shall so vote.

“I sign this resignation voluntarily as a condition on receiving said nomination (or appointment) and pledge my honor as a man, a Socialist, to abide by it.

“*Forms of Resignation to be Supplied by State Executive Committee.* Sec. 3. The State Executive Committee shall supply each local with the necessary resignation forms.

“*Appointment for Non-Competitive Offices.* Sec. 4. Elected Socialist Officials shall submit the names of the proposed or contemplated appointments for heads of departments, members of Mayor's Cabinets, Commissioners, Deputies and Members of Commissions or any other appointees to position of administrative or executive character for the approval of the local or county organizations. If said local or county organ-

ization shall disapprove of any proposed appointment, it may submit its choice of appointment to the said elected official. In case of further disagreement, the local or county organization and the elected officials have the right to appeal to the State Executive Committee.

" Selection of Candidates to be Voted for at the Fall Primaries. Sec. 5. (a) All candidates for public offices other than for County, Township, Municipal Offices, or candidates lying wholly within one county, to be nominated at the primary elections, shall be selected by a referendum vote of the dues-paying membership in such districts, or by a convention of delegates from the locals of such districts.

" (b) The selections made through such referendums or conventions shall be binding on the members composing the official committees authorized by law to make the designations for the primary elections.

" Eligibility for Public Office. Sec. 6. No person shall be eligible as a candidate of the Socialist Party for any political or public office (this not to include members of the political committee elected for the purpose of designating candidates) who is not a member in good standing at the time of his nomination, and has been such for a period of two years preceding the date of his nomination. Provided: that this rule shall not apply where there has been no local organization in existence for the prescribed period.

" No one but party members in good standing shall be nominated for member of political committees, authorized by law to designate candidates.

"ARTICLE IX.

" National Constitution.

" Takes Precedence. In case of conflict between any provisions of this constitution and the national constitution, the latter shall take precedence."

Mr. Block.—The By-laws of the Socialist Party of New York County, are as follows:

" BY-LAWS OF " SOCIALIST PARTY " New York County " Adopted 1918.

“ARTICLE I.

“ *Name.*

“ The name of the organization shall be ‘ Local New York, Socialist Party ’.

“ARTICLE II.

“ *Organization.*

“ Section 1. Local New York shall be composed of all organizations of the Socialist Party within the borough of Manhattan in the city and county of New York.

“ARTICLE III.

“ *Management.*

“ Section 1. The affairs of the Local shall be conducted by a Central Committee, and by the officers and Committees elected by the Central Committee.

“ Sec. 2. The officers of the Local shall be: An Executive Secretary, a Recording Secretary, a Treasurer. No member shall hold more than one of these offices.

“ Sec. 3. All acts of officers and committees shall be binding and inclusive unless rescinded by the Central Committee, and all acts of the Central Committee, shall be binding and conclusive unless rescinded by a General Party meeting or by a general vote of the members.

“ARTICLE IV.

“ *Central Committee.*

“ Section 1. The Central Committee shall be composed of delegates from the various branches of Local New York, and of the officers and members of the standing committees of the local.

“ Sec. 2. The basis of representation shall be as follows: One delegate for every 25 members in good standing in the Branch. The number of delegates shall be determined by the number of dues stamps bought by a branch during the twelve months preceding the month of November before the election.

“ Sec. 3. Newly organized branches shall be entitled for the first year to not more than two delegates; the regular

representation shall be given them only after an existence of at least one year.

" Sec. 4. The delegates to the Central Committee shall be elected at the second regular meeting of the branches in the month of December, and their term shall be for twelve months, unless withdrawn as hereinafter provided.

" Sec. 5. Delegates to the Central Committee must be in good standing and members of the Socialist Party for at least two years, excepting delegates of newly organized language branches.

" Sec. 6. Delegates to the Central Committee who have absented themselves without excuse from three consecutive meetings shall thereby forfeit their seats in the Central Committee, and branches shall be requested to elect other delegates.

" Sec. 7. The Central Committee shall elect an Executive Committee of 9, a Grievance Committee of 5, Auditing Committee of 3, a Recording Secretary, a Treasurer, and a Sergeant-at-arms, all of whom serve for one year and until their successors are elected.

" Sec. 8. Nominations are to be made at the first meeting of the Central Committee in January, and elections at the first meeting thereafter. Additional nominations may be made on the date of election.

" Sec. 9. The officers and members of committees of Local New York, if not delegates, shall have a voice, but no vote in the Central Committee.

" Sec. 10. The Central Committee shall have the right to donate a sum not exceeding fifty dollars by majority vote at a meeting when such donation is proposed; all donations of larger sums shall be referred to the next meeting, so that the delegates may consult their constituents.

" ARTICLE V.

" *Duties of the Central Committee.*

" Section 1. The Central Committee shall meet at least once a month.

" It shall:

" (a) Elect the officers of the Local and Committees as hereinbefore mentioned.

" b) Receive reports from Officers and Committees and to act on such reports.

"c) Receive reports from branches of the Local through their respective delegates.

"d) Carry out the decisions of general party meetings and of referendums of the members of Local New York.

"e) Enforce the attendance of delegates.

"f) Order general meetings of all members to be called whenever it shall deem such meetings necessary.

"g) Perform such other functions, not inconsistent with these By-laws, as may be required in furtherance of Socialist propaganda.

"*Order of Business.* Sec. 2. The meetings of the Central Committee shall be opened by the Executive Secretary, or in his absence by the Recording Secretary or any other officer of the local. The business of the Central Committee shall be transacted in the following order:

"Election of Chairman and Vice-Chairman.

"Reading of Minutes.

"Communications.

"Reports of Special Committees.

"Report of Executive Committee.

"Report of Standing Committees and Officers.

"Roll Call and Reports of Branches.

"Unfinished Business.

"New Business.

"Good and Welfare.

"Adjournment.

"Robert's 'Rules of Order' shall govern the proceedings of the Central Committee in so far as special rules are not provided.

"ARTICLE VI.

"*The Executive Committee.*

"Section 1. The Executive Committee shall consist of nine (9) members elected by the Central Committee and the District Representatives, elected by all the Party members in each Assembly District at a joint meeting of all the branches within the territory of the assembly district branches. Vacancies are to be filled in the same manner.

"Sec. 2. No member shall be eligible to the Executive Committee who has not been a member of the Party in good standing continuously for at least three years, and who has

not identified himself with the Party by active participation in its work.

"Sec. 3. The Executive Committee shall elect the following standing committees: On Organization, Education, Propaganda, Public Affairs, Finance, Naturalization, Propaganda among Women, and Young People's Socialist League. The Chairman of each committee shall be elected by the Executive Committee.

"Sec. 4. The Executive Committee shall:

"a) Meet at least twice a month; act as Campaign Committee, carry out all instructions of the Central Committee and appoint such committees as may be necessary.

"b) Prescribe a uniform system of bookkeeping for all branches.

"c) Receive and pass upon applications for membership.

"d) Call conventions of the Socialist Party in the County of New York, whenever required, as hereinafter provided.

"e) Investigate disputes between branches of the Local.

"f) Pass upon the formation of new branches or changes in the present divisions of the Local.

"g) Pass on all candidates for political offices within the County of New York, and in case of objection to any candidate so nominated, refer such objection to the Central Committee.

"h) Submit to general vote all propositions referred to Local New York by the National or State Committees.

"i) Pass upon all credentials of delegates to the Central Committee as soon as they are presented, and report thereon to the Central Committee.

"j) Provide for the raising of funds.

"k) Call mass meetings and arrange demonstrations whenever it may consider such meetings and demonstrations necessary and proper.

"l) Supervise the work of all branches of Local N. Y., of all standing committees and of the Executive Secretary.

"ARTICLE VII.

"*Standing Committees.*

"*Committee on Organization.* Sec. 1. The Committee on Organization shall consist of a Chairman elected by the Executive Committee and the Organizers of all branches: It shall:

"a) Keep a correct record of the names, addresses, dates of admission, occupations, and other useful information regarding all members of the Local.

"b) Supervise the work of organization of the Local and the Branches.

"c) Take steps to induce the unaffiliated Socialists in the county of New York to become members of the Socialist Party.

"d) See to it that all members of the Party who allow their membership to lapse be induced to resume active work and membership within the Party.

"e) Report to the Executive Committee on its work.

"*Committee on Education.* Sec. 2. Committee on Education shall consist of a Chairman elected by the Executive Committee and the Chairman of the Educational Committees of the Branches, Language Groups and a representative of the Y. P. S. L.; it shall:

"a) Supervise the educational work of the Local.

"b) Conduct one or more systematic lecture courses on Socialism or on topics of the day from a Socialist point of view.

"c) Organize classes for the study of Socialism among members of the Party and classes for the training of Socialist speakers.

"d) Organize special study clubs among young people and children's Socialist Schools.

"e) Co-operate with all agencies of Socialist instruction inside and outside of the Socialist Party.

"f) Report to the Executive Committee.

"*Propaganda Committee.* Sec. 3. The Propaganda Committee shall consist of a Chairman, elected by the Executive Committee and the Chairman of the Propaganda Committees of all Branches or Sub-divisions of the Local; it shall:

"a) Supervise the Propaganda work of the Local.

"b) Supervise and print popular Socialist literature.

"c) Supervise the distribution of literature and open air meetings and act jointly with Committee on Education and Committee of Propaganda Among Women where their work coincides.

"d) Report to the Executive Committee.

"Committee on Public Affairs. Sec. 4. Committee on Public Affairs; it shall:

"a) Issue public statements, proclamations, or resolutions, on all matters and events of general public interest, setting forth the position of the Socialist Party toward such matters and events, whenever necessary and practical, under the supervision and with the approval of the Executive Committee.

"b) Report to the Executive Committee.

"Finance Committee. Sec. 5. The Finance committee shall consist of a Chairman elected by the Executive Committee and a Representative from each Branch; it shall:

"a) Supervise the financing of the Party work and of all its Branches.

"b) Provide for raising of funds.

"c) Report to the Executive Committee.

"Naturalization Committee. Sec. 6. The Naturalization Committee shall consist of a Chairman elected by the Executive Committee and such assistants as may be appointed by the Chairman with the approval of the Executive Committee; it shall:

"a) Maintain one or more naturalization bureaus in the County under supervision and with the approval of the Executive Committee.

"b) Procure and keep on hand copies of the latest rules, statutes, and decisions on naturalization.

"c) Distribute printed instructions for the guidance of applicants for naturalization and aid applicants for naturalization in every possible way, and maintain a bureau for that purpose.

"d) Make public propaganda for a more liberal naturalization law and a more liberal administration of existing statutes.

"Committee on Propaganda.

"Among Women. Sec. 7. The Committee on Propaganda among Women shall consist of a Chairman elected by the Executive Committee and a delegate from each Branch; it shall:

"a) Supervise propaganda among women and take measures to bring them into the Party and co-operate with the Committees on Propaganda and Education for that purpose.

"b) Report to the Executive Committee.

"*Labor Union Committee.* Sec. 8. The Labor Union Committee shall consist of a Chairman, elected by the Executive Committee and one delegate from each branch, who must be members of labor unions; it shall:

"a) Keep a correct record of the names, addresses, dates of admission, occupations, and other useful information regarding all members of the local.

"b) Keep a list of members who are also members of labor organizations.

"c) Organize work among the trade unions and other labor organizations.

"d) Report to the Executive Committee.

"*Young People's Committee.* Sec. 9. The Young People's Committee shall consist of three members elected by the Executive Committee and two elected by the Young People's Socialist League.

"a) It shall direct in conjunction with the Supervisors the education and organization of the young people.

"b) Report to the Executive Committee.

"ARTICLE VIII.

" *Grievance Committee.*

"The Committee on Grievances shall:

"Section 1. Elect a Chairman and a Secretary and adopt a uniform method of procedure, and submit the same for approval to the Central Committee to be incorporated in its Rule Book.

"Sec. 2. a) Shall investigate such charges against members of the Local as are referred to it by the Central Committee, and report its recommendations on same to the Central Committee.

"b) It shall proceed to investigate each case without unnecessary delay, hearing the witnesses on both sides.

"c) The Committee shall send a copy of the charges to the accused.

"d) Shall have authority to summon to its hearings the accusing and accused persons and such other persons whose testimony may be deemed material or necessary. Such summons to be mailed by registered letter to the last known address of persons whose attendance is required.

"Sec. 3. A detailed report of the investigation and conclusion of the Committee shall be drawn and laid before the Central Committee not later than the second regular meeting following the taking of testimony. The accused and accuser being notified by the Secretary of the Grievance Committee in due time to appear there.

"ARTICLE IX.

"Auditing Committee.

"The Auditing Committee shall:

"Section 1. Investigate once a month all the financial books, reports and accounts of the Local, of the Finance Committee and of any other committees handling party funds, and report on their condition to the Central Committee.

"Sec. 2. See whether the balance shown by the books of the Local is deposited in the bank, or its equivalent can be shown in cash by the Executive Secretary.

"Sec. 3. Keep the monthly financial reports represented by the Executive Secretary and submit them to the Executive Committee every three months or whenever the books are audited.

"ARTICLE X.

"Executive Secretary.

Section 1. The Executive Secretary shall be elected by a Referendum Vote of Local New York; he shall:

"a) Devote his entire time to the work of the Local.

"b) Act as Corresponding Secretary of the Local.

"c) Act as Campaign Secretary during all campaigns of the Local.

"d) Call special meetings of the Central and Executive Committees whenever he deems it proper and whenever requested by one-third of the delegates.

"e) Be a member ex-officio of all committees of the Local.

"f) In every way assist the divisions of the Local in the work of organization and propaganda.

"g) Keep a correct record of the names, addresses, dates of admission, occupations and other useful information regarding all members of the Local.

"h) Have charge of the seal, office, books, and other property belonging to the Local.

"i) Prepare and furnish to branches all supplies ordered by the Central Committee.

"j) Keep correct accounts of the income and expenditures of the Local.

"k) Attend to all bookkeeping and other matters of business and routine of the Local.

"l) Submit all bills against the Local to the Executive Committee.

"m) Render a report every month of the financial condition of the Local to the Executive Committee.

"n) Buy dues stamps from the State Committee for the Local and sell the same to the branches for cash only, at such rates as may be fixed by the Central Committee. He shall also have charge of and sell all assessment stamps, tickets and subscription lists.

"o) Supply the Executive Committee of the Local, every year and whenever new delegates are elected with a membership report and an account of the dues stamps bought by every branch during the preceding year.

"p) Receive applications for membership and collect the initiation fees.

"q) Prepare annual reports of the work of propaganda, education and organization, and of the financial affairs of the Local.

"r) Report to the Central Committee and carry out its instructions.

"s) Turn over at the end of his term of office, to his successor in office, all books, funds and other property of the Local in his possession.

"Sec. 2. The Executive Secretary shall furnish a bond to be approved by the Executive Committee in a sum of not less than \$1,000.00.

"Sec. 3. All funds to be received by the Executive Secretary shall be deposited in a bank to be approved by the Executive Committee and all bills ordered to be paid by the Executive Committee wherever possible shall be paid by Check to be signed by the Treasurer and countersigned by the Executive Secretary.

"Sec. 4. The term of office of the Executive Secretary shall begin with the first week in May, nominations to be made during the month of January and the election to take place ending with the last day in March.

"Sec. 5. The Executive Secretary must be a member in good standing and a member of the Socialist party for at least three consecutive years.

" ARTICLE XI.

" *Treasurer.*

"Section 1. The treasurer shall be elected by the Central Committee for a term of one year; he shall:

"a) Have the custody of the funds and supervise all accounts of the income and expenditure of the Local and sign all checks or bills approved by the Executive Committee when countersigned by the Executive Secretary.

"b) Prepare semi-annually a report of his receipts and disbursements.

"c) Turn over at the end of his term of office to his successor in office all funds and other property of the Local in his possession.

"Sec. 2. The Treasurer shall furnish a bond in a sum of not less than \$1,000.00 to be approved by the Executive Committee.

"Sec. 3. The treasurer shall be a member ex-officio of the Finance Committee.

" ARTICLE XII.

" *Recording Secretary.*

"Section 1. The Recording Secretary shall:

"a) Keep a correct record of the proceedings of the Central Committee.

"b) Furnish accurate reports of the Central Committee meetings to all Socialist Party papers of New York city.

"ARTICLE XIII.

" *Sergeant-at-Arms.*

"Section 1. The Sergeant-at-Arms shall:

"a) Provide seats for visiting members in the rear of the meeting hall, separate from those occupied by the delegates.

"b) Require of all delegates and visiting members their membership cards.

"c) Use his efforts in preserving decorum and good order in the meeting halls.

“ARTICLE XIV.

“Branches or Subdivisions.

“Section 1. The branches or subdivisions of Local New York shall be organized on the basis of Assembly districts. The Central Committee may combine two or more Assembly districts into one branch.

“Sec. 2. a) Separate language branches or groups may be formed whenever necessary among those members desiring to transact their business in a language other than English.

“b) But no more than one branch in any one foreign language shall exist in one assembly district.

“c) Language branches should be designated to a definite political subdivision and no language branch should cover a larger territory than the English branch, except where only one language branch is in the Local.

“d) Whenever there are more than one branch in any language, they shall form a committee for agitation purposes and transact business of common interest to all of such branches.

“e) Language branches shall in all party matters co-operate with the English speaking branches in their territory and shall in every respect be subject to the jurisdiction and decisions of the Local.

“Sec. 3. It shall be the duty of every officer of the branch to transmit promptly to his branch all official communications sent to him by the Executive Secretary or any other officer of the Party for that purpose.

“Sec. 4. The presiding officer of the branch shall explain to every applicant before he is admitted to membership, the significance of the class struggle and the uncompromising policy of the Party, and the applicant shall pledge in writing to its recognition and support. A copy of the National Platform, National and State Constitution and By-Laws of the Local shall be handed to every new member.

“Sec. 5. A member in good standing of one branch shall have the right to attend and speak at any meeting of another branch, but shall not be allowed to vote.

“Sec. 6. a) The branches in each organized political subdivision shall meet jointly at least once a month to transact business of common interest and to organize and carry on the propaganda and agitation in the district.

" b) At the joint meeting in the month of January they shall elect a district organizer and such other officers and committees as is necessary to carry on the work of the organization, each branch in the district shall have at least one member on each of the committees elected by the joint meetings.

" Sec. 7. a) The District Organizer shall represent the district on the Executive Committee of the Local.

" b) He shall act as corresponding secretary for the district on all matters concerning the district as a whole.

" c) He shall look after the agitation and organization of the Party in the district and for this purpose should visit all the branches in the district regularly, co-operate and assist them in their work and report to them of the work of the Local and the district.

" d) He shall be elected for a term of one year.

"ARTICLE XV.

" *Duties of Branches.*

" Section 1. The Branches shall meet at least once a month, and at least one-half of the number of meetings shall be devoted to education, such as lectures, discussions, etc.

" Sec. 2. The regular order of business for the branch meetings shall be: Election of Chairman, reading of minutes, proposal of new members, admission of new members, communications and bills, report of Executive Committee, reports of delegates to the Central Committee, reports of committees and special delegates, unfinished business, roll-call of members, new business, good and welfare.

" Sec. 3. The branches may fix such special order of business as they may find necessary from time to time.

" Sec. 4. The branches shall elect their officers, delegates and standing committees at their second regular meetings in December.

" Sec. 5. Every branch shall elect from its members the following officers, delegates and such standing committees as the branches may desire to have:

"(a) An Organizer; (b) a Financial Secretary; (c) a Recording Secretary; (d) a Treasurer; (e) Delegates to the Central Committee; (f) an Auditing Committee of three members, and at least the following committees: An Ex-

ecutive Committee, a Membership Committee, a Committee on Education, and a Propaganda Committee.

"Sec. 6. No member can be an officer of a Branch who has not been a member of the Party for at least one year.

"Sec. 7. The result of every election within a Branch shall be sent immediately, and a list of all members in arrears, suspensions, and change of address, at least once a month, to the Executive Secretary of the Local.

"Sec. 8. The branches shall submit to their membership for a vote all propositions referred by the Executive Committee for a general vote.

"Sec. 9. The branches shall purchase their dues stamps from the Executive Secretary of the Local.

"Sec. 10. Each Branch shall, through its delegates, make monthly reports to the Central Committee about its organization, propaganda work, and such other matters as the Central Committee may require. It shall send in the months of July and January a report of its financial condition, such report to contain the names, addresses, standing and such other information as the printed forms furnished by the Executive Committee may require.

"Sec. 11. No branch shall be dissolved without the consent of the Executive Committee.

"Sec. 12. In case of dissolution of any Branch, all the property belonging to the same shall be turned over to the Executive Committee of the Local.

"*Executive Committee.* Sec. 13. a) The Executive Committee of a Branch shall consist of three members elected by the Branch and of the Chairman of all standing committees.

"b) The Executive Committee shall perform the routine work of the Branch subject to the approval of the Branch meetings.

"*Membership Committee.* Sec. 14. a) It shall be the duty of the Membership Committee to increase and consolidate the membership, by calling upon delinquent and indifferent members, by visiting enrolled voters and sympathizers, and by holding organization meetings at regular intervals.

"b) It shall elect a permanent chairman who shall supervise the activities of the committee and keep an accurate record of the work done.

"c) The Financial Secretary of the Branch shall be a member ex-officio of this committee.

" *Propaganda Committee.* Sec. 15. a) All Election District Captains within the territory of an Assembly District shall constitute the propaganda committee for that district.

" b) Each Assembly District propaganda committee shall meet once a month for the transaction of business.

"c) The district organizer shall act as chairman of this committee, shall supervise its activities, shall keep a record of the work done, and shall, subject to the approval of the committee, appoint captains for those election districts in which a regular agitation is carried on.

" d) It shall be the duty of every Election District Captain to supply the residents of his election district with literature as often as possible; he shall endeavor to obtain the assistance of as many members as are necessary to canvass the entire election district regularly; he shall assign a definite block or group of houses to each of his assistants for careful canvassing; and at regular intervals he shall furnish to the district organizer a correct list of the members and sympathizers residing within his election district.

"ARTICLE XVI.

" *Dues.*

" Section 1. The dues per member to be paid by the Branches to the Local shall be ten cents more than the local pays to State Committee, but the Central Committee shall have the power to fix the amount of dues as the circumstances may require. The various subdivisions may fix such additional dues as they may see fit, providing that such is adopted by two-thirds of the members voting. All members in good standing shall receive notification of such proposed changes.

" Sec. 2. The dues shall be receipted by dues stamps purchased from the Financial Secretary.

" Sec. 3. Members shall refuse to pay dues unless the Financial Secretary shall furnish the dues stamps. It is the duty of every member to immediately inform the Executive Secretary of the local whenever his Financial Secretary collects dues without giving the necessary dues stamps.

" Sec. 4. To be in good standing a member's dues must not be more than 3 months in arrears.

"Sec. 5. Sick or unemployed members will be excused from payment of dues, but the fact must be noted each month upon their cards.

"Sec. 6. A member who has withheld payment of his dues for three months, unless known to be sick or unemployed, shall be immediately notified in writing by the Financial Secretary of the subdivision, and at the conclusion of a fourth month of delinquency shall stand suspended, and a suspension notice shall be sent to the member.

"Sec. 7. A member suspended for the non-payment of dues, may be reinstated upon the payment of back dues, or in extraordinary cases may be reinstated without payment by the branch making such suspension.

"Sec. 8. The Executive Committee shall supply the subdivisions with printed circulars for delinquent and suspended members.

"Sec. 9. Members in arrears in the payment of their dues shall have no right to vote on any questions to be voted upon by the members of the party unless excused on account of sickness or unemployment.

"Sec. 10. The Executive Secretary of the Local shall have a correct list of all members suspended or dropped from the rolls by the various branches.

"ARTICLE XVII.

"Membership.

"Section 1. Any person 18 years of age or over, who agrees to abide by the National Platform and Constitution and Resolutions of the Socialist Party, may become a member of the Party.

"Sec. 2. Candidates for membership in the party shall be proposed at a regular meeting of the subdivision; they must be present when proposed, except in cases of compulsory night work when the application may be accepted in the absence of the candidate.

"Sec. 3. All applications must be signed by the Financial Secretary and the Applicant and forwarded to the Executive Secretary with an admission fee of 25 cents.

"Sec. 4. All objections filed with the Executive Secretary shall be reported by him to the Executive Committee; the

latter shall cause an investigation to be made thereon and report its findings to the Central Committee.

"Sec. 5. The Candidates for Membership against whom objections were made can be admitted by the Central Committee by a two-third affirmative vote of the delegates present.

"Sec. 6. Every member must belong to the branch in whose territory he resides except by special permission of the Central Committee.

"Sec. 7. The subdivision should transfer any member as soon as he moves out of its territory, and the fact so entered in the minutes of the district. A transfer card shall be given to the member acknowledging that he paid all his dues, and that the subdivision has no other claim against him; the Financial Secretaries of both branches, the one issuing and the one receiving the transfer shall send stub of transfer to the Executive Secretary of the Local.

"Sec. 8. Any member transferring to any of the subdivisions of Local New York from any other Local or State shall be accepted on the presentation of his membership card in good standing, but the fact must be at once communicated to the Executive Secretary, so that he may write for further information to the secretary of the local of which such Comrade was formerly a member.

"ARTICLE XVIII.

"Charges.

"Section 1. Charges against members of the Local must be made in writing and signed either by the individual member making the charges or by the Executive Secretary in behalf of the Central Committee.

"Sec. 2. All such charges shall be referred immediately to the Grievance Committee.

"Sec. 3. Charges shall not be debated until the Grievance Committee has thoroughly investigated the case and reported to the Central Committee.

"Sec. 4. A two-thirds vote of the delegates to the Central Committee present and voting shall be required to expel a member of the Local. A majority shall be sufficient to suspend or censure.

"Sec. 5. A member of the Local shall not be suspended for a longer period than one year.

"Sec. 6. An expelled or suspended member may appeal from within two months to a general vote, or to the State Committee, but he shall not enjoy the privileges of membership pending the appeal.

"ARTICLE XIX.

" *Secret Ballot Election.*

"Section 1. The Executive Secretary:

"a) Delegates to City, State and National Conventions shall be elected by secret ballot of the membership of the Local.

"b) Each subdivision is entitled to nominate as many candidates as there are offices to be filled.

"c) No one shall be placed on the list of candidates unless he or she receive the nomination of at least one subdivision of the Local.

"d) The names of all such candidates for the various offices shall be placed on the ballot in alphabetical order.

"e) After receiving notice of such secret ballot election, the Assembly District Branch designates a meeting for the election within the four weeks that are allowed for it.

"f) The Branch notifies the Executive Committee of the meeting so selected. The Executive Committee in turn delegates one of its members to supervise such election as its representative.

"g) The Executive Committee shall tabulate the vote, and the Comrade or Comrades receiving the highest number of votes shall be declared elected for the respective offices and committees.

"Sec. 2. In case of referendums, the Executive Committee, with the approval of the Central Committee, may order the vote to be taken by secret ballot, in which case it shall be so directed in the letter to the subdivisions accompanying ballots for use on such referendums.

Sec. 3. The delegates to the Central Committees and officers of subdivisions, whenever there are more than the required number of candidates, shall be elected by a secret ballot.

"ARTICLE XX.

" Secret Balloting.

" Section 1. Each subdivision of the Local shall elect by a majority vote a Board of Elections consisting of three members.

" Sec. 2. Whenever an election is to take place the financial secretaries of the various subdivisions shall be required to prepare from their books a list of members in good standing, such list to be verified by the Board of Elections of the respective subdivisions.

" Sec. 3. In voting every member shall hand in the folded ballot to the Board of Elections, whereupon a check shall be marked on the list of good standing members supplied by the financial secretary. When the voting is over, the Board must count the number of ballots, the total to correspond with the number of checks on the list.

" Sec. 4. After the ballots are counted they shall be canvassed by the Board of Elections. The representative of the Executive Committee of the Local acting as chairman.

" Sec. 5. After the vote is canvassed for each candidate, three statements containing the report of the votes cast are to be signed by the three members of the Board of Elections and the representative of the Executive Committee of the Local. Each of these statements shall be put in a separate envelope and sealed. One of these envelopes to remain in the custody of the Recording Secretary of the Branch until the total vote in the Local is canvassed and published. The second is addressed to the Executive Committee of the Local to be taken there by its representatives. The third is to be addressed to the Executive Secretary of Local New York and mailed.

" Sec. 6. For secret balloting in subdivision elections, the same method shall prevail, except that the Board of Elections itself shall constitute the Canvassing Board.

" Sec. 6. For secret balloting in subdivision elections the same method shall prevail, except that the board of elections itself shall constitute the canvassing board.

“ARTICLE XXI.

“General Meetings.

“Section 1. General meetings may be called by the Central Committee of the Executive Committee whenever it deems it necessary.

“Sec. 2. Upon the request of two or more Branches representing not less than four hundred members in good standing, the Central Committee shall call a general meeting of the Local. In requesting a general meeting, the Branches shall state the order of business for which such general meeting is to be called.

“Sec. 3. The Executive Secretary of the Local shall notify all good standing members of the Local whenever a general meeting is to be held, stating time, place and order of the day for which such meeting is called. Such notice to be published in the Party press and mailed to every member at least three days before the date of meeting.

“Sec. 4. Only members in good standing shall be admitted to such meetings, and only members of Local New York shall be allowed to vote.

“Sec. 5. General meetings shall act only on subjects that are mentioned in the call for such meetings.

“Sec. 6. If a quorum is present, all actions of such general meetings shall be binding upon the Local and its officers and committees.

“Sec. 7. The presence of one-seventh of the good-standing members of the Local is necessary to constitute a quorum.

“Sec. 8. The membership of the Local shall be determined from the last annual membership report.

“Sec. 9. If no quorum is present at a general meeting, the meeting may, nevertheless, proceed to discuss the order of business before it, but in that case its decision shall have no binding force, and shall be regarded merely in the nature of recommendations.

“Sec. 10. The point of no quorum may be raised before taking any vote.

“Sec. 11. Upon the demand of one-third of the members present and voting, any or all the decisions of the general meeting shall be referred to a referendum vote of the members of the Local.

“Sec. 12. A general meeting shall not be continued in session and no vote shall be taken after midnight.

“ARTICLE XXII.

“ General Discussion Meetings.

“ Section 1. General Discussion Meetings may be called by the Central Committee whenever deemed necessary, or by the Executive Secretary upon the request of three or more subdivisions.

“ARTICLE XXIII.

“ Referendums.

“ Referendum votes shall be taken :

“ Section 1. On all matters submitted to a referendum vote by either the National or State Committee.

“ Sec. 2. On any decision of the Central Committee, when demanded by one-third of the delegates present and voting or when requested by subdivisions representing not less than four hundred members in good standing.

“ Sec. 3. On amendments to the By-Laws when asked for by subdivisions representing not less than four hundred members.

“ Sec. 4. All referendum votes shall be submitted without comment and ballots containing the subjects to be voted upon shall be sent to the Financial Secretaries of the subdivisions in proportion to their number of good standing members.

“ Sec. 5. In case of referendums, the Executive Committee, with the approval of the Central Committee, may order the vote to be taken by secret ballot, in which case it shall be so directed in the letter to the subdivisions accompanying ballots for use on such referendums.

“ Sec. 6. Only members in good standing shall be entitled to vote on any referendum.

“ Sec. 7. The individual ballot shall be signed by the members and shall be retained by the Secretary of the subdivision for two months, after which they may be destroyed. The Secretary shall send to the Executive Secretary a ballot containing the tabulated vote cast for and against every subject voted upon.

“ Sec. 8. The members may vote only at their meetings, and the referendum shall stand open for members to be voted upon until the last meeting of the subdivision prior to the date set by the Local for the closing of the vote.

"Sec. 9. No ballots shall be sent by mail to any of its members by any of the subdivisions of the Local, exception being made with those known to be sick or working nights.

"ARTICLE XXIV.

" Amendments.

"Section 1. The By-laws of Local New York may be amended or altered in the following way:

"The Central Committee may amend the By-laws, by a majority vote of the delegates present. Such amendment to be referred to the Branches for discussion and shall come up at the next meeting of the Central Committee for final adoption when a two-thirds majority is necessary.

"ARTICLE XXV.

" Quorums.

"Section 1. One-seventh of all the members of the Local in good standing shall constitute a quorum for the transaction of business at a general meeting of the Local.

"Sec. 2. One-third of the total membership of the Central Committee shall constitute a quorum for the transaction of business.

"Sec. 3. One-third of the total number of delegates shall constitute a quorum for the transaction of business at a Convention of Local New York.

"ARTICLE XXVI.

" Conventions.

"Section 1. Upon the request of four or more Branches it shall be the duty of the Central Committee to issue a call for a local convention.

"Sec. 2. The Executive Committee shall prepare and publish in the Socialist press the order of business for the Convention at least one month before the date set for same.

"Sec. 3. The basis of representation at such conventions shall be as follows: One delegate for each branch, one delegate for each language group, and one additional delegate for every twenty members of such branch or group in good standing.

"Sec. 4. The convention shall meet at the call of the Executive Secretary, and may adjourn from time to time and continue its sessions until its business has been fully completed.

"Sec. 5. The convention shall hear reports from all officers and standing committees of the Local; review the work of the organization and determine the general plan of work.

"Sec. 6. The decisions of the convention shall be binding upon all members, officers and committees of the Local, unless reversed by a general vote.

"ARTICLE XXVII.

"*Miscellaneous Regulations.*

"Section 1. None but party members shall speak for or represent the party.

"Sec. 2. A member ex-officio of a committee shall have a voice, but no vote, in the sessions of such committee.

"Sec. 3. The officers of Local New York shall be elected for a period of one year.

"Sec. 4. Any member of the Local in good standing is eligible to all offices and committees of the Local, whether he is a delegate to the Central Committee or not, provided the special requirements of these By-laws are complied with.

"Sec. 5. Any member of a committee, officer or delegate, may at any time be withdrawn by the body that has elected him.

"Sec. 6. Acquaintance with the current affairs of the Party being essential for the intelligent discharge of the duties and responsibilities of party membership, each subdivision shall insist upon each member being a reader of a Party paper.

"Sec. 7. No subdivision shall enter into any compromise with any other political organization or party. No candidate of the Party for any public office shall accept any nomination or indorsement from any other political organization or party, or permit such indorsement to stand without public protest, otherwise his nomination must be at once withdrawn.

"Sec. 8. On accepting a nomination of the Party for public office, the candidate shall at once give to the Executive Committee a signed resignation, dated—, of the office for which he is nominated and shall assent in writing to its

being filed with the proper authorities if, in case of election, he proves disloyal to the Party.

"Sec. 9. In case of conflict between any clause of these By-Laws and the National or State Constitution, it shall be deemed void, and the National or State Constitution shall take precedence.

"ARTICLE XXVIII.

"Eligibility For Political Office.

"Sec. 1. No member shall be eligible to become a candidate for political office who has not been a member of the Party in good standing continuously for at least three years.

"Sec. 2. No member of the Party who has previously been a candidate on old party tickets, shall be eligible for candidacy on the Socialist Party ticket except after five years' continuous membership in the Party."

Mr. Wolff.— Did you mention the author of that?

Mr. Block.— Hon. Charles Russell, son of Lord Russell, of Killowen.

I also read from the American Labor Year Book, 1917-18, which is in evidence under Exhibit No. 45, page 358:

"The Christian Socialists.

"The Christian Socialist movement in the United States in the late '70's and during the '80's was sporadic in character but was led by very sincere and earnest men. Dissatisfied with the existing social order, having a keen discernment of the evolution of society and a penetrating vision of the future, they groped persistently for bearings from which to direct their shafts of denunciation and warning. They were fearsome of the word Socialism but were none the less vehement in their attacks upon the existing order and demands for a more Christian state of society. The Transcendentalists and others experimented with colonies, all of which had religion as a basis. During the last decade of the Nineteenth Century the word Socialism began to be used by them and the Socialist program presented as a theory or plan and considerable cohesion or unanimity appeared among the devotees. Among the leaders may be mentioned Reverend W. D. P. Bliss and Professors George D. Herron and R. T. Ely.

"Probably the Episcopal Church was the only one within which there arose a society bearing any semblance to a working class movement. This society was made up of a few Parsons and pious women, and was called the Church Association for the Advancement of the Interests of Labor, C. A. I. L. for short, and still exists. During its early career, under the inspiration of Reverend Father Huntington, an Anglican Monk of the Order of the Holy Cross, and of other Single Taxers, it was quite radical, but of late years it has been rather colorless in its activities. To a few very radical Episcopalians is also to be credited the importation of a distinctly Socialist organization from the Mother Church of England, the Christian Social Union, which sprang from the Christian Socialist movement of Kingsley and Maurice, both priests of the Church of England. A branch of the Union was formed in 1893 with Right Rev. F. D. Huntington of the diocese of Central New York as President. The Union gave considerable promise and much was hoped of it by Bishop Huntington who was at heart a thorough Socialist; but, aside from issuing a few brochures, nothing came of it. Its ultimate affiliation with the Association for the Advancement of the Interests of Labor marked its quick decline.

"The distinct advance of Socialist sentiment and movement among the Church people of America was coincident with the spread of Socialism beyond the groups of the foreign born.

"At the National Convention of the Socialist Party in Chicago in 1902 there were among the regular delegates a number of Clergy and lay-officials of different churches. Since that date two Christian Socialist organizations have been formed and are now very active, with the avowed purpose of extending the principles of Socialism among church people of America.

"The first and largest of these is the Christian Socialist fellowship, and inter-denominational organization with offices in Chicago. It was organized in Louisville, Ky., in June, 1906. From the beginning its general secretary has been Rev. Edward Ellis Carr, Ph.D. It publishes a weekly and monthly paper called 'The Christian Socialist,' with office in Chicago. It has over 50 branches and a large proportion of its members are allied with the Socialist movement and party.

It holds annual and frequent district conferences. Through its general offices and local centers, Socialist sermons and lectures have been delivered in thousands of churches. Millions of copies of the official paper of the Fellowship have been circulated to preachers, teachers and Social workers. Churches, Y. M. C. A.'s, and Colleges are opened to the message of Socialism as put forth by the Fellowship.

"In 1911 the Church Socialist League in America was organized by a few clergy and lay-people of the Episcopal Church. For some years there had been a strong and very pronounced Socialist League in England. The organization of an American Church Socialist League was fortunate, as the pulpits of the Episcopal Church are not generally open to Clergy of different denominations. As the influence of the Episcopal Church is greater throughout the country than in proportion to its numbers, so is it with the League. Its influence within the Episcopal Church is not at all measured by its numerical strength. In spite of the conservatism of the Episcopal Church and of its numbering many leading capitalists of the country among its members, yet that church has officially adopted radical and even revolutionary resolutions, and the influence of the Church Socialist League is discernible as giving color to them. A considerable share of the clergy are tinctured with Socialism. With but 6,000 clergy, several hundred are avowed Socialists and nearly 100 are members of the Socialist Party. The League is able to present the parallel demands of militant Socialism to this communion as no other society can. Rev. A. L. Byron-Curtiss is the National Secretary, and the official organ is a quarterly, *The Social Preparation*, the official address of both being Utica, N. Y. Officers and Executive Committee embrace the following well known names:

"President: Right Rev. Paul Jones, D. D. Vice-Presidents: Right Rev. William A. Guerrey, D. D., Right Rev. Benjamin Brewster, D. D., Rev. Eliot White. Executive Committee: Rev. G. Israel Browne, Rev. William H. Tomlins, Very Rev. Bernard I. Bell, Rev. A. L. Byron-Curtiss, William F. Cochrane, M. H. Reeves, E. M. Parker, Vida D. Scudder, Charlotte E. Lee, Ellen Gates Starr."

Mr. Block.—Now, I wish to read from a book which is in evidence, the Socialist Congressional Campaign Book; I don't recall

the Exhibit number, but it is the book with the red cover that has been referred to a number of times. It is Exhibit No. 38, the Socialist Congressional Campaign Book, 1914, from which certain parts have already been read, and I read from page 22:

“SOCIALISM AND ITS CRITICS.”

“SOCIALISM AND THE CATHOLIC CHURCH.

“*A Catholic Defense of Socialism.*”

“Some of the leading Catholic scholars of America recently issued a protest against the famous Encyclopedia Britannica, alleging that many of its articles misrepresent the Roman Catholic Church and its religion.

“If the charge is true, every fair minded man and woman will sympathize with the protest. It is a shame that millions of earnest men and women should be misrepresented.

“Perhaps our Catholic friends will now be able to appreciate how the Socialists feel when they are misrepresented and libelled in Catholic papers and by priests speaking from the altar.

“Now, we observe that a good many Catholic papers are printing long extracts from a remarkable speech delivered by the Honorable Charles Russell, son of Lord Russell, of Killowen, at the annual congress of the Catholic Young Men’s Society of Great Britain.

“We give the greater part of the speech, and trust that it will help to dispel the prejudice of many and honest Catholics.

“Speech by Hon. Charles Russell:

“The first thing we have to consider is the question, What is the origin of the present socialistic movement? It is to be found in the present deplorable and appalling state of society. We have, on the one hand, prodigious growth of wealth in a few hands, nearly three-fourths of the land of England is held by ten thousand people, while twelve thousand men own two-thirds of our industries. Accompanying this, we have among the rich an unparalleled growth of luxury and extravagance; on the other hand, we have growth of poverty and destitution, a want of work, an increase in sweating and misery among the poor.

“The race is deteriorating and we have to admit that, out of a population of forty-five million, twelve million are on the verge of starvation. We have the greater part of the

owners of great wealth doing nothing to remedy the evil conditions of the poor. As Cardinal Gibbons has said, 'No friend of his race can contemplate without painful emotions the heartless monopolies and grasping avarice which has dried up every sentiment of sympathy, and sordid selfishness which is deaf to cries of distress. Their whole aim is to realize large dividends without regard to the claims of justice and charity. These trusts and monopolies, like the Car of Juggernaut, crush every obstacle that stands in their way, they compel their operatives to work for starvation wages, especially in mining districts and factories, where protests are but a feeble effort and are easily stifled by intimidation.' "

"That is the state of affairs which has brought about the rapid growth of Socialistic views, and is it to be wondered at that thoughtful men should seek a new remedy and should have come to the conclusion that the present conditions of affairs must be ended and cannot be mended. Of course, if all the world were to live up to the teachings of the Master, things would not be as they exist, but the human race being what it is, a remedy remains to be found. I do not for a moment suggest Socialism as the remedy, but this is true, I think, that except upon lines of Socialism there is at the present moment no other remedy proposed. **THE BURDEN IS UPON ANYBODY WHO DENOUNCES SOCIALISM TO SUGGEST AN ALTERNATIVE, BUT UP TO THE PRESENT MOMENT SOCIALISM ALONE HOLDS THE FIELD.**

"Now, Socialism is denounced by many of our Catholic priests and Catholic laymen as something abominable which no Catholic can support or tolerate, and Socialists are declared to be fools or knaves; and that is the attitude which I wish you to examine to-day. Again, I repeat, I am not a Socialist, but I want to ask you whether this attitude toward Socialism is either just or wise.

"Its definition is well known and admitted. It is the municipalization of the sources of production of wealth, or, in other words, it is a system under which the State is to own all the productive businesses and manufactories in a country instead of their being owned, as at present, by a fortunate and favored section of the community.

"Now, in the first place, a moment's reflection will at once reveal this: That Socialism is not a thing which can

be brought about by either violence or revolution. Being a state of affairs which means a complete change in the habits and thoughts of mankind, it can only be achieved by a slow, gradual change. It must be accomplished by evolution, not revolution.

"In the next place, may I point out that at first sight, and indeed I may say at second sight, there is nothing on the face of that proposition which is contrary to Christianity or Catholicism. Indeed, in this and other Christian countries, we have gone a good way along the road which leads to the ultimate realization of that condition. The state in different instances owns telephones, water supply, tramways, gas supply, telegraphs, the postal service, the railway service and the tobacco, and I confess I have not noticed any material change for the better or worse taking place in the religion or morals of the tramway officials or passengers, or of the telephone operators, since those systems have been transferred to the state.

"In what, then, can it be said that Socialism is un-Christian and un-Catholic? One way in which this is endeavored to be established is the assertion that it means the expropriation without compensation by the State of private properties of individuals, but this is not necessarily so, and the leading Socialist parties in this country do not advocate for a moment any such proceeding. They are, in fact, strongly opposed to it. We have already arrived at the municipalization of industries, representing tens of thousands of millions of money, without adopting such a course.

"But even supposing that Socialism did mean the expropriation without compensation (which it does not), I am tempted to ask, is it therefore either anti-Christian or anti-Catholic? It is admitted that the State has a right to tax property of the subject, but does not a right to tax involve necessarily a right to take if it should be for the public good that the property should be taken?

"It is perfectly moral and right to take a twentieth part of a man's property, as is done by income tax at present, or a tenth part, as is done often by death duties, or a fourth part as is done by increment tax. But if it be admitted that it is right and proper to take a twentieth, a tenth, a fourth, for the good of the State, why is it unchristian and immoral, if the State needs it, to take the whole? Where

does virtue cease and vice begin? I submit that it must logically follow that the right to tax must necessarily involve the right to take. Test the matter in another way. Does anybody deny the right of a State to insist upon its subjects becoming soldiers and giving up their lives for the good of the State? If the State can take a man's life when it is for the good of the nation to do so, surely it has also the right to take his property for the same object.

"Again I wish to repeat I am not a Socialist. I strongly object and protest against Socialism being fought upon wrong lines, and, to my mind it is fighting it on wrong lines to denounce it on the ground of religion and morality. It is not only unfair fighting, but, like the rest of unfair fighting it is a very foolish procedure, because if all the forces of religion are turned against Socialism, it will inevitably follow in course of time that all the forces of Socialism will necessarily be turned against religion, whereas, if Socialism is met, as it ought to be met, and fought on the battleground of economical principles, we will then be meeting it and fighting it on a fair field with no favor. Of course, I am quite aware of the argument which will be mentioned against me; that I should have referred to the writings and speeches of individual Socialists who denounce religion and discourse upon a grotesque morality of their own. Those are the views of individual Socialists, whose views are to be deplored and denounced, but they are the views of individual Socialists. It is a mere confusion of the very serious and grave issues at stake to rely upon them in a discussion like this. It would be as logical to denounce the medical profession because many of them abuse their knowledge, or artists or poets, because so many stoop to use their talents to pander to vice. It would be as reasonable to denounce liberalism, the Liberal Party, because John Morley is an avowed agnostic, or Toryism, because Mr. Balfour to a large extent shares the same views. The enemies of religion and the enemies of morality are to be found in all ranks and in all parties. It is a curious thing today that the most violent anti-church politician in France is also one of the most violent anti-Socialistic leaders; I refer to M. Clemenceau.

"Now, as I have said, let us meet Socialism and fight it with the proper weapons. Let us point out the evils of Social-

ism, the impracticability of Socialism; that it must necessarily destroy all incentive to effort and invention.

"These and kindred arguments, which it is not our business to go into tonight, are those which are to be employed to battle Socialism, but I protest most strongly against the fulmination of religious thunderbolts, even when they are delivered by our genial friend, Father Bernard Vaughan, from a selected platform in the Queens Hall, a Duke in the Chair, and Rothchild's band discoursing sweet music.

"Persuasion sometimes makes converts,—denunciation never. Nothing you can say or do will prevent the mass of the nation listening to the teachings of Socialism. The people know and feel the mortal disease from which they are suffering and they will listen to all serious people who propose a remedy. They will listen, too, to you if you are prepared to show the falseness of the remedy; but mere wholesale abuse and denunciation will merely make them turn away in disgust and drive them in the very direction from which you wish to divert them."

Mr. Stedman.—In connection with that: as "The Price We Pay" was referred to, and the fact that Irwin St. John Tucker was shown here to have been found guilty with Berger and others of conspiracy, I think it would be proper to read from the Exhibit offered by the Committee's attorneys, and I am reading from Page 854, Volume 2, of the Berger record:

"My name is Irwin St. John Tucker; I am a Minister and Priest of the Protestant Episcopal Church; assistant to the rector in charge of All Saints Episcopal Church, Ravenswood. I was born in Mobile, Alabama, January 10th, 1886."

He then testifies to serving as a reporter on various newspapers.

"I then studied for the ministry at a Theological Seminary in New York City in September, 1909; graduated in 1912. Was made Deacon of the Protestant Episcopal Church on June 8th, 1912, and made application to join the Socialist party the same week. I was intensely interested in discovering that in the Old and New Testaments the Saints and the Prophets were what we would call now Revolutionary Socialists. I found that these men were indicted and persecuted, and frequently sent to jail because they were asking for the

rights of human beings and to live as such. I took the position that it was impossible for me, as a Christian Minister and man, to stand for anything but those things that stood for those ends, for which Socialists stood. I put in my application to join the Socialist party. My first charge was in St. Marks' Church in the Bowery, New York. The Rector engaged me to conduct Sunday services for the purpose of presenting the economic side of Christianity and that the service was devoted to the proposition that Socialism is the economic expression of Christianity. I held those services every Sunday night for a year and a half. I was offered the position as Assistant Editor of a Chicago paper."

The balance I will read later as it applies to this leaflet on "The Price We Pay."

Mr. Block.—I wish to read now from the Socialist Congressional Campaign Book again on page 8. I wish to say, Mr. Chairman, that the matter contained in this book is by no means the best possible statements on the subject referred to. The book came out a few years ago, and there have been better statements issued since then, and therefore, I am only reading from this book at this time because this is the book which is now in evidence.

Mr. Wolff.—I do not think the entire book is in.

Mr. Block.—Yes, I think it is. Page 8. (Reading):

"WHAT SOCIALISM MEANS.

"Broadly speaking, it means:

"First: That the means of production and distribution of wealth which are social and public in nature should be publicly owned. This would include the coal, oil and iron lands, the rivers, forests and other natural resources. It would also include all the great public utilities, such as railroads, telegraphs, express companies, and in short all the great trusts and monopolies.

"Second: That all social utilities, being collectively owned, shall be under democratic control for the benefit of all who work, in order that profit-making, whereby one person exploits another, shall be abolished.

"Third: That all who are able shall be given opportunity to labor in the collectively owned industries and each shall receive the full product of his toil.

"Fourth: That each shall have for his own private property all that his labor earns of food and clothing, shelter, house and home—books, music, education, recreation and culture.

"Fifth: That the government, municipal, state and national, shall be made truly democratic, so that the will and wish of the people may be the law of the land. This will be accomplished by means of the initiative, referendum, recall, proportional representation and other measures making for popular government.

"What the Authorities Say."

"Against these simple, straightforward proposals of Socialism there has been let loose a flood of misrepresentation. It is said to be anarchy, atheism, free love, 'divide up' and a lot of other stupid and impossible things.

"No intelligent person holds these views; and any one who would take the pains to turn to an ordinary dictionary or encyclopedia would soon learn differently.

"We quote a few of the recognized authorities:

"1. 'Socialism.—A theory of society that advocates a more precise, orderly and harmonious arrangement of the social relations than that which has hitherto prevailed.'—Webster's Dictionary.

"2. 'A Science of reconstructing society on an entirely new basis by substituting the principle of association for that of competition in every branch of industry.'—Worcester's Dictionary.

"3. The Encyclopedia Britannica says: 'The ethics of socialism are closely akin to the ethics of Christianity, if not identical with them.'

"4. The Standard Dictionary defines Socialism as: 'A theory of civil policy that aims to secure the reconstruction of society, increase of wealth, and a more equal distribution of the products of labor thru the public collective ownership of land and capital (as distinguished from property), and the public collective management of all industries.'

"5. 'Socialism seeks such an organization of life as shall secure for every one the most complete development of his powers'. 'It is applied Christianity—the Golden Rule applied to everyday life.'—Prof. Richard T. Ely.

"You are often told that Socialism would destroy property, abolish private ownership or divide up the wealth of the world. As a matter of fact, Socialists have no more idea of abolishing property than they do of abolishing life. They have no more idea of dividing up the world's wealth and sharing it than they have of cutting up their own bodies. Our idea is that private monopoly in the great resources of life means wealth for the few — and toil, hardship and misery for the many. We propose therefore that the public utilities shall be owned by all in order that all may be secure in the possession of private property which their labor earns.

"We all observe how the trusts are constantly advancing the cost of living.

"The owners of these trusts and monopolies virtually decide how much we shall pay for our bread and our meat, how much for our kerosene and our coal, and how much we are to spend for our food, clothing, houses, etc.

"They also decide what wages we shall receive and the conditions of our labor. In other words, the trusts decide how well or how poorly we are to live, or whether we live at all or not.

"And the wage workers are by no means the only ones who suffer from these conditions.

"With every increase of power and concentration of wealth the educated and professional class is forced more and more into dependence upon the capitalist. Our teachers, professors, speakers, newspaper editors and writers, and even ministers, doctors and all professional men, are more and more at the mercy of the capitalist system, and brought into abject dependence.

"These conditions are before our eyes.

"And what remedy do the old political parties bring the people?

"Parties, like individuals, act from motives of self-interest.

"Now, the old parties are owned by the capitalists. They all stand for capitalism — for the private ownership and operation of the monopolies and the trusts."

"There is only one party that offers a real remedy; that stands for an entirely new ideal; that stands against capitalism and for the public ownership and democratic control of

the great industries of the nation. That is the Socialist party."

Mr. Wolff.— You omitted something there.

Mr. Block.— There is a good deal that I am omitting because it is going to take a great deal of time, and I am afraid we have no time to read all I would like to read. I will skip some more and some others.

Mr. Stedman.— Which have you in mind? We will read anything you want.

Mr. Block.— I did not want to take any time in reading things that are not of moment just now.

On page 11, "The Most Frequent Objections to Socialism Answered," and turning to page 12, "That Socialism is Against Religion" (reading):

"Socialism is an economic and not a religious question. What a man believes or does not believe about religion does not enter into the solution of the bread and butter question. The capitalist class exploits and robs the working class regardless of what the latter believe about religion, or what is their color, race or sex. Since the capitalists exploit all of us in common, regardless of whether we are Catholic or Protestant, black or white, male or female, we therefore ought to stand solidly together as a united working class fighting for one common end — our own industrial freedom. The person who seeks to divide the working class by appealing to race or religious prejudice is an enemy of the working people."

Mr. Block.— Then on page 13:

"That Socialism will destroy the home and substitute free love for marriage.

"This is the last argument of a dishonest person. Many honest people do not at first understand the economic program of socialism, but no honest person ever charged the Socialists with a desire to abolish marriage and return to a state of barbarism, simply because nowhere in the literature of Socialism is such a preposterous thing even hinted at. Socialists believe that women are not now possessed of all the rights to which they are as human beings entitled. We propose that when it is possible for all men to have employ-

ment, as it will be under Socialism, that the same opportunity shall be open to women. This will forever end prostitution for profit, for no woman will sell her body for bread when it is possible to sell her labor power and thus honorably support herself. Neither will she rush into matrimony merely for the sake of being supported; nor will she become a burden added to that which the already overloaded man must carry as he does today. She will be an equal and a partner. Instead of destroying the monogamic home, Socialism will give it the first fair chance it has ever had. The home under capitalism is assailed by terrible enemies, such as prostitution, poverty, disease and ignorance. These are the home-breakers, every one of which has an economic cause for existence. These home-breakers will disappear under Socialism."

Mr. Block.—I want to read one paragraph on page 16 from Karl Marx on "The Class Struggle" (reading):

"The history of all hitherto existing society is the history of class struggles. Freeman and slave, patrician and plebeian, lord and serf, guild-master and journeyman—in a word, oppressor and oppressed—stood in constant opposition to one another carried on an uninterrupted, now hidden, now open fight—a fight that each time ended either in a revolutionary reconstruction of society at large or in the common ruin of the contending classes. In the earlier epochs of history we find almost everywhere a complicated arrangement of society into various orders, a manifold gradation of social rank. In ancient Rome we have lords, vassals, guild-masters, journeymen, apprentices, serfs; in modern bourgeois society that has sprouted from the ruins of feudal society has not done away with class antagonisms. It has but established new classes, new conditions of oppression, new forms of struggle in place of the old ones."

I want to read also—I believe the Election Law has been referred to in the proceedings—the Election Law of New York, section 40: "Rules of Committee,"—perhaps I may not read it in full, but call the attention to this sentence: "Each Committee may prepare rules and regulations for the Government of the party, and the conduct of official primaries within its political subdivisions, which may include the payment of dues."

There was introduced in evidence yesterday, Mr. Chairman, a copy of the answer of Postmaster General Burleson to the petition of The Workingmen's Cooperative Publishing Association, publishers of the New York Call in the action for mandamus now pending in the Supreme Court of the District of Columbia in Washington, and the petition was also considered as marked in evidence. It is rather lengthy and I do not purpose to read it, but I feel if it is not read into the record it should be printed, otherwise there will be no copies of it for the use of the Committee. I ask to have the stenographer mark this, which is, "The Rule to Show Cause," and the Petition, and I suggest this Rule to Show Cause, the Petition and the Answer, be printed as an Exhibit, just as the Martens testimony and the Soviet Constitution and Decree were.

(The Rule to Show Cause and Petition were marked Assemblymen's Exhibit No. 2 of this date, and will be found in the Exhibits printed in the Appendix.)

The Chairman.— All right, they will be printed.

Mr. Block.— I would like it to appear on the record that the various articles that have been read into the record from the various issues of the New York Call have been taken from the news columns of that paper, as well as from Articles that bore the signatures of the contributors or authors of these articles, and none of these articles have been taken from the editorial columns of the New York Call, or purport to be taken from the editorial column. They are merely published as items in that paper as any other articles would be.

The Chairman.— It shows upon the article read there about the flag,— I think it was on the editorial page,— but that it was a signed article.

Mr. Conboy.— Isn't it a fact that most of the articles on the editorial page in The Call are signed?

Mr. Block.— Oh, no. All articles in the editorial column are not signed. Contributed matter and special articles which are not distinctly news articles that usually appear on that page.

Mr. Conboy.— I understand that man Herron who wrote that was discharged.

Mr. Stedman.— Yes, he was the editor and discharged, — he was the temporary editor. The record shows what he was by the examination of Mr. Berger's testimony.

The Chairman.— Proceed.

Mr. Stedman.— In reference to that phase that has been brought out on Internationalism, — I want to read —

(Discussion off the record.)

Mr. Stedman.— I am reading from the Exhibit from the record in the Berger case, which the National Committee adopted in May, 1915, and publishes the platform as follows:

“The supreme crisis in human history is upon us.

“European civilization is engulfed. The world's peace is shattered. The future of the human race is imperilled.

“The immediate causes of the war are obvious. Previous wars and terms of settlement which created lasting hatreds and bred thoughts of revenge; imperialism and commercial rivalries; the triple alliance and the triple entente dividing all Europe into two hostile camps; secret intrigue of diplomats and lack of democracy; vast systems of military and naval equipment; fear and suspicion bred and spread by a vicious jingo press in all nations; powerful armament interests that reap rich harvest out of havoc and death, all these have played their sinister parts. But back of these factors lie the deeper and more fundamental causes, causes rooted in the very system of capitalist production.

“Every capitalist nation on earth exploits its people. The wages received by the workers are insufficient to enable them to purchase all they need for the proper sustenance of their lives. A surplus of commodities accumulates. The capitalists cannot consume all. It must be exported to foreign countries.

“In every capitalist nation it becomes increasingly difficult for the capitalists to re-invest their accumulated profits to advantage in their own country, with their people destitute and their resources fully developed and exploited. The capitalists are constantly forced to look for new and foreign fields of investment.

“In many countries of Europe, limited territorially and densely populated, the supply of natural resources is insuffi-

cient to support the large volume of industrial requirements. The capitalists must look for new sources of raw materials and supplies to less developed foreign countries.

"Hence arise the commercial struggle between the nations, the rivalries for the acquisition of foreign colonies, the efforts to defend and extend the oversea 'possessions'; the policies of imperialism, the conflicts for commercial supremacy, ever growing more intense and fierce as the nations expand and the world's field of conquest narrows. Hence arise the policies of armaments every year more immense and monstrous. Hence arise the strategy, the intrigues of secret diplomacy, till all the world is involved in a deadly struggle for the capture and control of the world market.

"Thus capitalism, inevitably leading to commercial rivalry and imperialism and functioning through the modern state with its vast armaments, secret diplomacies and undemocratic governments, logically leads to war.

"Reactionary ruling classes sometimes also deliberately plunge countries into war for the purpose of crushing progressive movements by creating false patriotic excitement and thus sidetracking the real class issues. Every war, furthermore, is used by the capitalists in order to destroy the organized forces of the labor movement.

"For more than half a century the Socialist movement has warned the world of this impending tragedy. With every power at their command the Socialists of all nations have worked to prevent it. But the warning has gone unheeded and the Socialist propaganda against imperialism, militarism and war has been ignored by the ruling powers and the majority of the people of all nations.

"Today our prediction has been only too swiftly and too tragically fulfilled. War, with all its horrors is upon us.

"And it has come as the logical and inevitable outcome of the forces of capitalist system. It has come in spite of the warnings and protests of the Socialist and labor movements and indeed in spite of the personal desires of many of the capitalists themselves. The capitalist system is a modern Frankenstein which is destroying its own creators.

"If this unspeakable tragedy shall serve to demonstrate to the world, and particularly to the workers of all nations, the real and fundamental causes of war, so that by removing

these causes man henceforth may live at peace, the war may be worth the cost.

"If, on the other hand, the people shall remain blind to the terrible lessons of this war, and leave the destinies of the world in the hands of unscrupulous, war-inciting capitalist rulers, then indeed is this world-war an unmitigated curse. For, if the causes that brought on this war are left to operate, then this war will not be the last. It will only be the first of a series of wars more terrible and more tragic, until one mighty and monstrous imperialism has drenched the world in blood and subdued the people in abject slavery. Socialism alone will ultimately save mankind from the standing menace of self-destruction.

"The supreme duty of the hour is for us, the Socialists of all the world, therefore, to summon all labor forces of the world, for an aggressive, an uncompromising opposition to the whole capitalist system, and to every form of its most deadly fruits—militarism and war—to strengthen the bonds of working-class solidarity; to deepen the currents of conscious internationalism, and to proclaim to the world a constructive program leading towards permanent peace.

"The Socialists of America extend the hand of comradeship to their unfortunate brothers in all countries now ravaged by the war, the sufferers and victims of the vicious system which has engulfed them in fratricidal carnage. We convey to them our unfaltering faith in the world-wide class-struggle, in international Socialism and in the brotherhood of man. We proclaim our determination to join our comrades in the task of rebuilding the Socialist International upon such a basis that henceforth it cannot be shaken by the most violent storms of capitalist conflicts.

"To the Socialist and labor forces in all the world and to all who cherish the ideals of justice, we make our appeal, believing that out of the ashes of this mighty conflagration will yet arise the deeper internationalism and the great democracy and peace.

"As measures calculated to bring about these results we urge:

"1. TERMS OF PEACE AT THE CLOSE OF THE PRESENT WAR must be based on the following provisions:

"1. No indemnities.

"2. No transfer of territory except upon the consent and by vote of the people within the territory.

"3. All countries under foreign rule be given political independence if demanded by the inhabitants of such countries.

"II. INTERNATIONAL FEDERATION — THE UNITED STATES OF THE WORLD.

"1. An international congress with legislative and administrative powers over international affairs and with permanent committees in place of present secret diplomacy.

"2. Special Commissions to consider international disputes as they may arise. The decisions of such commissions to be enforced without resort to arms. Each commission to go out of existence when the special problem that called it into being is solved.

"3. International ownership and control of strategic waterways such as the Dardanelles, the Straits of Gibraltar and the Suez, Panama and Kiel Canals.

"4. Neutralization of the seas.

"III. DISARMAMENT.

"1. Universal disarmament as speedily as possible.

"2. Abolition of manufacture of arms and munitions of war for private profit, and prohibition of exportation of arms, war equipments and supplies from one country to another.

"3. No increase in existing armaments under any circumstances.

"4. No appropriations for military or naval purposes.

"IV. EXTENSION OF DEMOCRACY.

"Political Democracy.

"(a) Abolition of secret diplomacy and democratic control of foreign policies.

"(b) Universal suffrage, including woman suffrage.

"INDUSTRIAL DEMOCRACY."

The Chairman.—What was that article from.

Mr. Stedman.—That was issued by the National Executive Committee of the Socialist Party in May, 1915.—the first declaration for peace without annexation and self-determination.

Mr. Stedman.—Referring to — there will be several of these as they develop, the Lusitania and so forth, which will be read — we did not take a patent on it, Mr. Chairman.

The Chairman.—Proceed.

Mr. Stedman.— I am now referring to the testimony of St. John Tucker. "The Price We Pay" has been read in evidence, and I want to refer to short portions of the testimony in reference to certain matters.

Mr. Conboy.— What page?

Mr. Stedman.— I will read first from page 586 for special reasons:

"The idea of writing this brochure had been in my mind before, ever since I read the St. Louis War Proclamation, with which I was very much dissatisfied, because I thought it was not scientific and not constructive. I disagreed with its analysis of the causes of this war, so I dissented from the program given there as not being constructive, and I opposed it when it came up in the meeting of the 26th Ward Branch of the Socialist Party, which is my branch, my memorandum book says on the 21st of June. I objected to the phrase in the War Proclamation about branding the Declaration of War by our government as a crime against the people of the United States and that no greater dishonor has ever been forced upon a people than that which the capitalist class is forcing upon this nation against its will. I object to the expression 'plunged into this war by the trickery and treachery of the ruling class.' I took the position that it was the stupidity of the working class which allows the ruling class to have such power. In the phrase 'in all modern history there has been no war more unjustifiable,' I urged striking out 'unjustifiable' and putting in 'inevitable.' For fifty years we Socialists have been proclaiming this war was going to come just as it did, and about at the time it came. I oppose the 1, 2, 3, 4, 5, 6, 7, as being not a constructive program. I had advocated in the columns of the American Socialist of March, 1917, what I called a constructive program. I wrote this article 'Suggested War Program.'

"We can follow out the policy of the Socialist movement throughout the world by adopting in the present war crisis a platform declaring for the following steps:

"1. Immediate confiscation of all incomes in excess of \$10,000.00 a year.

"2. Immediate levying of a 75 per cent inheritance tax.

"3. Immediate seizure by the government of all railroads;

their operation through the present administrative heads, under the direction of a Secretary of Railroads, in the President's cabinet. Payment of all stockholders their pro rata of the physical valuation of said railroads; and payments not to be made until the physical valuation has been completed, and no interest to be paid meanwhile.

"4. Immediate seizure of all mines — coal, copper, iron, zinc, lead, gold, silver, and all other kinds; their operation by the government through a Department of Mines.

"5. Immediate control of all food supply, by governmental ownership and operation of the storage warehouses. Passage of a law making the speculation in foodstuffs an act of high treason under the Articles of War — namely, punishable with death.

"6. Establishment of industrial democracy in all industries under governmental control, through recognition of the unions as the medium between the government and the workers.

"To every one of these emergency measures the government and the labor bodies have already given careful consideration, and some measure of approbation. They are feasible. They may be too late to stop the war. But at any rate they will take all the flavor out of this war, for those who have precipitated it. They will make use of the sudden threat of war to force through what we have hammered on for a generation and what now the crystallization of popular opinion will make it possible for us to accomplish."

I am now going to read from page 875, "The Pigs of War":

"A few days after his arrival at home in Chicago the American Minister to the Balkans addressed the Irish Fellowship Club in a most diplomatically careful speech, describing some of the horrors of that part of the war which he had seen, after having briefly sketched the causes that led to the first outbreak. His excellency went back farther than most of us in studying these beginnings, and referred to the underlying reason of the bitterness between Serbia and Austria, which, he said, was simply a question of trade. Austria had been the principal, almost the sole market for the one product that Serbia offered for sale outside her own borders. Hungary began to compete for this trade. As the latter formed part of the Dual Monarchy, Austria, by tariff regulation,

favored her. Serbia, anxious to reach other markets, then sought to secure the port of Durazzo, so as to give her an outlet on the Adriatic Sea. Austria objected. The Serbians believed that the greatest Austrian opponent to their nation's ambitions was the Archduke Franz Ferdinand; so Serbians assassinated him. The war was on.

"Some of this is, of course, ancient, if half-forgotten knowledge to any one who had interested himself in the war from its inception; but how few of us knew at the time or know now, for that matter, what was that Serbian product which caused the first disagreement, and thus really brought on the conflict? The Minister mentioned it in a most casual way. It was Pigs."

I am reading now Monsignor Kelly's explanation as to the economic feature of it —

Mr. Conboy.—Is this the ex-Ambassador, Monsignor Kelly?

Mr. Stedman.—Yes, he is the ex-Ambassador. I thought it was on that page — page 871, from the Industrial Relations Commissions' Report, as follows:

"In such communities democratic government does not, as a rule, exist, except in name or form, and as a consequence there now exist within the body of our Republic industrial communities which are virtually principalities, oppressive to those dependent upon them for a livelihood and a dreadful menace to the peace and welfare of the Nation.

"The wealth of the country between 1890 and 1912 increased from sixty-five to one hundred and eighty-seven billions, or 188 per cent, whereas the aggregate income of wage-earners in manufacturing, mining, and transportation has risen between 1889 and 1909 only 95 per cent, from two thousand five hundred and sixteen millions in 1889 to four thousand nine hundred and sixteen millions in 1909. Furthermore, the wage-earners' share of the net product of industry in the case of manufactures was only 49.2 per cent in 1909, as compared with 44.9 per cent in 1889."

I think that is about all in this that I have to read except an article which I may refer to later, and that is a quotation. I think that is all.

Mr. Chairman, Mr. Roe will present a motion to strike out certain evidence which we think is incompetent; but it is not to be interpreted in any sense as a motion for the dismissal of the proceeding. We realize that this is an investigation, as stated by the Chairman yesterday, and that any motion might perhaps be improper, as we have really no plaintiff's case or defendant's case.

The Chairman.— Yes, that is the view I took of it.

Proceed, Mr. Roe.

Mr. Roe.— Mr. Chairman and gentlemen of the Committee: I am going to reduce to a brief form a motion to strike out, which I wish to make. I fully sympathize with the desire to get through this afternoon, and I realize that it is almost as unpleasant to make a talk as it is for you to listen to it. That will be a big argument for brevity.

As counsel has said, we are not making a motion to dismiss. Of course, any motion to dismiss would properly be addressed to a court at this stage of the proceeding; but we are aware, of course, that any action that you take will come in the form of a report which you must make to the Assembly, and the time when you make that report, the form of it and the substance of it is entirely a matter for you to determine.

I think it is my duty as an attorney in this case, however, to present very briefly my view of the law in the present situation. I do not think that any evidence at all has been produced here from which you can report that these men are disqualified.

Now, while the evidence has taken a very wide range in this case, the issue, or the matter concerning which you are inquiring into here, is a very narrow one, as I see it. The resolution passed, with the recitals used as a justification, or inserted in the resolution as a justification, for the suspension of these men — the resolution which defines what you are to do — is as follows:

“Resolved, that an investigation of the merits and eligibility of the said persons to their respective seats in this Assembly be, and hereby is, referred to the Committee on Judiciary of the Assembly to report,”

and so forth.

That resolution, for its authority, as we have been repeatedly told here, rests back upon the provision of section 10 of article III of the Constitution, which is as follows:

“Each House shall determine the rules of its own proceeding and be the judge of the election returns and qualifications of its members.”

The language is that the Assembly is to be the judge of the qualifications of its members, and I take it that the qualifications and eligibility are practically the same thing, or synonymous, because “qualifications” is really a broader term than “eligibility”; so that the thing which the Assembly can do under this provision of the Constitution is to judge the election returns and qualifications of its members. It cannot prescribe qualifications for membership. The qualifications of the members of the Assembly are prescribed by law. Some of them are prescribed by the Constitution. Some are prescribed by statute. The member must be of full age. He must be a citizen of the United States. He must be a resident of the State. Those are qualifications that are prescribed by section 3 of the Public Officers Law.

Then again, he must not have been, at the time of his election, or within 100 days previous thereto, a Member of Congress or a civil or military officer of the United States, or an officer of any city government. That is prescribed by section 8 of article III of the Constitution. Then, also, he is prohibited by Article XIII of the Constitution from procuring his election by fraud.

Now, there may be other qualifications that the law prescribes for membership in the Assembly, but those are the only ones to which my attention has been called, and whether there are or not, the law is and must be that qualifications are prescribed — they are fixed; they are determined by law — they are not prescribed by each House separately. Each House determines for itself whether the qualifications which the law prescribes exist or not, and that is the limit of the power of the House under this provision of the Constitution.

Now, I am not going to spend a great deal of time upon this. The question has been before this Assembly. It has been before the Senate of this State. You will remember that very early in this proceeding we had up the Decker case, with which some of the members of this Committee are very familiar, and the law of that case is perfectly good law and it is the law of this case. The case has been referred to early in the discussion and is in the record, and I am not going to repeat the language of that decision of the Judiciary Committee, which was approved

unanimously by the House. I do, however, wish to call attention to the case in the Senate, the case of Senator James Wood, in 1872. The Committee's report, Senate Document No. 54, finding that Mr. Wood had solicited and received loans from Tweed and Jay Gould, which they would not have advanced to him had they not believed that they could thereby derive advantage from Mr. Wood's action as a legislator, of improper character, described his conduct as inconsistent with his position as a legislator and said that it must necessarily embarrass his actions as such in regard to any matter brought before the Senate in which these men may be interested.

The resolution which was passed and adopted, dealing with that situation, was as follows:

"Resolved, That in the opinion of the Senate, the conduct of Hon. James Wood, in placing himself under pecuniary obligations to persons * * * pending before the body of which he was then a member should be censured.

"Resolved, That the acts with which he now stands charged are not offenses against this body, but of the former Senate; and that the resolution of expulsion be indefinitely postponed.

Assemblyman Cuvillier.—Is that the New York State Senate?

Mr. Roe.—That is the New York State Senate, in the Wood case, in 1872.

Now, I am perfectly aware, and I am addressing you gentlemen as a committee of lawyers — and this matter was referred to you because you are a committee of lawyers — I am perfectly aware that the gentlemen on the other side, driven, as they are bound to be, from the position that they have taken throughout this case; that it is a case to inquire into qualifications, and as they have argued repeatedly, to be judged in the same way as though these members had been met at the threshold of the Assembly and denied admission and the question of their qualifications referred to this Committee. I say I am quite aware that, driven from that position, which is the one they have occupied throughout this proceeding, they may endeavor to convert it into a proceeding to expel these members under the provision of the legislative law. But that provision of the legislative law obviously was never in the mind of the persons who initiated

this proceeding. The charges which that provision of the law specify are not here. They are not signed. We have not gone about this matter. No issue is joined here. There is nothing to join issue upon, and we cannot, at this late date, get under the legislative procedure for expulsion. If we do, that raises the same question we raised at the beginning of this case. If this is a mere proceeding for expulsion, these men belonged from the first in the Assembly and their expulsion was entirely improper.

Now, I have said that much because I am addressing a committee of attorneys and I wanted to say that much upon that phase of the case.

Assemblyman Evans.—What provision of the Legislative Law are you referring to?

Mr. Roe.—Section 3 of the Legislative Law.

Now, gentlemen, I am going to my motion to strike out, and I am going to abbreviate very much what I had intended to say upon that motion. If you will allow me to make a short statement in the beginning, which will cover my idea of the objection to very much of this testimony—and I shall not repeat it when I come to enumerate the specific exhibits and portions of the testimony which I shall move to strike out.

We have gone on here for a number of weeks taking testimony over a very wide range, and while we have felt from time to time, as the testimony has been coming in, that it was over far too wide a range, yet, as I look back at it now; as I think very often occurs, you quite get the point of view of the court and conclude that while the court was thinking along different lines from what you were, perhaps the court was right after all. Certainly, at this stage of the proceeding no one in behalf of the prosecution in this case can claim that they have been denied the right to introduce testimony of any sort from any place, however it might have been acquired; and it is desirable that that should be true. We have gone to Russia; we have gone to Quebec; we have introduced the Soviet constitution; we have introduced private letters, and it is all here; and for weeks, without a word of reply, because we had not reached our portion of the case, the worst possible showing for the Socialist party has been made; and it is desirable, as I say, at this stage of the proceeding, from our point of view, that that should be the condition of the record, because there is no

longer any mystery about it. We know everything that the other side could get, and most of it was found after this proceeding was begun, as the record shows. But one thing we have not shown in all this range of testimony, we have not inquired what these men have a right to say; what these men have a right to believe; what principles these men have a right to advocate; and I wish, before I take up specific portions of this evidence, to try to lay down the rule, if I can — not in my own language, but in the language of very learned men, men whose learning, whose patriotism, whose devotion to their country, are not in doubt. I wish to lay down their language of the rules and definition and description of what these five Assemblymen, like any other American citizens, have a right to believe; what they have a right to say; whether in peace or war; and what principles they have a right to advocate; and if it then should appear from the larger part of the evidence in the case that they were within their rights, that that evidence should be stricken from the case and not considered at all by you in your deliberations.

In *Gulf v. Ellis*, 165 U. S. 160, it says:

“It is always safe to read the letter of the Constitution in the spirit of the Declaration of Independence.”

I have had occasion to cite that case a number of times, but I presume all of you gentlemen have read it. The Declaration of Independence, after stating that all governments derive their just powers from the consent of the governed and that the real function of government is to secure the people in the rights of life, liberty and the pursuit of happiness, declares:

“Whenever any form of government becomes destructive of these ends, it is the right of the people to alter or to abolish it, and to institute a new government, laying its foundation on such principles and organizing its powers in such form as to them shall seem most likely to effect their safety and happiness.”

Now, the mere fact, sirs, that some one, if they pursue legal means, desires to work fundamental changes in our government — aye, even if they desire to abolish it and substitute some other form of government, in its place laying a foundation as they think best, it is no evidence that they are disloyal to their country and no evidence that they should not have a seat in this body after they have fully talked out and discussed the principles.

Now, I am not saying that that is the purpose of the Socialist party, but I am saying that any party, any citizen — Socialist or anyone — has the right to go that far.

President Wilson, whom many of us differ from politically, but we all recognize his learning and his devotion to our country and its institutions, in the last issue of his "The New Freedom" said this — page 244:

"I want you to read a passage from the Virginia Bill of Rights, that immortal document that has been a model for declarations of liberty throughout the rest of the continent.

"That all power is vested in, and consequently derived from, the people; that magistrates are their trustees and servants, and at all times amenable to them.

"That government is, or ought to be, instituted for the common benefit, protection, and security of the people, nation, or community; of all the various modes and forms of government, that is the best which is capable of producing the greatest degree of happiness and safety, and is most effectually secured against the danger of mal-administration; and that, when any government shall be found inadequate or contrary to these purposes, a majority of the community hath an indubitable, inalienable, and indefeasible right to reform, alter, or abolish it, in such manner as shall be judged most conducive to the public weal."

Now, I am going to pass that phase of the discussion.

The Chairman.— Do you think that means violence?

Mr. Roe.— No, sir.

The Chairman.— Well, proceed.

Mr. Stedman.— It advocates violence in another passage.

The Chairman.— Proceed.

Mr. Roe.— I think Lincoln correctly draws the line with regard to violence: "Violence, in my opinion, only becomes admissible or permissible when the civil processes no longer operate. As long as the citizens of this country can go to the ballot box and elect their representatives and have those ballots counted and have those representatives seated to represent the people in the law-making branch of this state, they have no occasion to resort to violence; but when those functions of government are destroyed —

of the civil government — what, let me ask you, is there left to a people who are determined to remain free and independent and masters of their own fate?"

Now, it has been said that the Socialist Party opposed the war. You see if my suggestions are good — I am taking them by chunks out of this evidence. It is true, as I read their platform and understand from the testimony, they were opposed to this war because they believed it was against the interests of the people of this country — perhaps of the people of the world — to engage in a war. That is all. Maybe they were mistaken about it. But that is not the question. They were entitled, I contend, to their opinion. There was set out at an earlier stage of this proceeding a statement of General Grant in his Personal Memoirs. I have it here in its entirety. I will read from the second edition, 1895, pages 32-34:

"For myself I was bitterly opposed to the measure (annexation of Texas) and to this day regard the war which resulted as one of the most unjust ever waged by a stronger against a weaker nation. It was an instance of a republic following the bad example of European monarchies, in not considering justice in their desire to acquire additional territory. * * * The occupation, separation and annexation (of Texas) were, from the inception of the movement to its final consummation, a conspiracy to acquire territory out of which slave states might be formed for the American union * * * even if the annexation itself could be justified, the manner in which the subsequent war was forced upon Mexico cannot * * * It might have been obtained (Texas) by other means. The Southern rebellion was largely the outgrowth of the Mexican War."

As he points out there, the Civil War very largely grew out of the Mexican War. You never can tell, when you turn war loose, what is going to result. Sometimes it is inevitable; but surely it is no evidence of disloyalty or lack of love of one's country if they do go to extremes to fight the possibility of war; or, when war is declared, if they take the position that it should be terminated by speedy and honorable peace and not by fighting until the last man and the last dollar of the country are used.

Now, I have here many quotations, but, for the reasons I have stated, I am not going to take up the time of the Committee to read them. They show the positions of public men during war,

such as Lincoln, Sumner, Clay, Webster and a host of others. Even the House of Representatives going on record in the war — the Ashman amendment — declaring the war unconstitutional; doing really what some of the Socialists did in their opposition to the present war; so that if my position upon this question is well taken, it makes it unnecessary to dwell upon the specific portions of the evidence in this case, which has been read — excerpts of many letters — simply to show that they were opposed to the war before it began. They believed it was wrong and they believed it should be terminated as speedily as possible after it was commenced.

At this point I move to strike out the following exhibits: Exhibits 16 to 18, being the Yiddish pamphlet by Rogoff, which was sought to be connected in some way with the Right Wing of the Socialist Party through the hearsay testimony of the witness Kauffman (page 198). This testimony Mr. Stanchfield specifically promised the Committee to connect. It has not been connected.

(NOTE.— Mr. Roe, later in the afternoon, made a request that his entire brief be printed in the record, which request was granted by the Chairman. This brief will be found at the close of the day's proceedings.)

Mr. Roe.— A partial translation of this pamphlet was introduced by the testimony of the witness Robbinton at page 207, and the complete pamphlet is found as exhibit 25, page 246. I am going to put the specific motion in such a form that you will have it before you in the printed record.

I also make the same motion for the same reason in regard to exhibits 19 and 20 introduced at page 215. This pamphlet the prosecution also promised to connect and have not done so. The Hoffman pamphlet has printed on it, apparently, the name, "Russian Association Federation, New York, 1919." Page 214, while the Rogoff pamphlet has printed on it, "Published by the Jewish Socialist Federation, New York, 1920." Now, of course, the legend printed on these books or pamphlets is no proof of their authenticity, but even if this were not so, there is not a line of evidence in the case to show that any of these five men or the Socialist Party of America, to which they belong, have any connection with these pamphlets.

Now, there was a significant thing occurred when one of those pamphlets was first introduced. You will remember that a par-

tial translation was given of one of those pamphlets. The committee was deceived by it; I have no doubt that the counsel of the other side were deceived by it. They thought that the language which that man read was really the language of the Socialist party to which these men belonged, but you will recall when Mr. Hillquit, on cross-examination, developed the facts, it appeared that the pamphlets was no more than the academic discussion of socialism and communism and that the interpreter had merely interpreted those portions of the pamphlet which dealt with communism and it had been put over here as being, we all understood at the time, pretending to represent the views of the Socialist party of America.

The Chairman.—That we understood. It turned out that was simply a review of both sides. I think you read the other side in, as I recall it.

Mr. Block.—The entire book was subsequently read.

Mr. Conboy.—I don't think that is quit accurate, Mr. Chairman, but we will deal with that when we come to it.

Mr. Roe.—I think very candidly that the other side have been mistaken. They are honorable gentlemen in that matter. In the matter of the ballot which they got from the New York Call, or not the ballot but the minority and majority reports there, one containing the word "solidarity," and the other one not having that word in it, but merely, "we pledge our support." They were mistaken about that. I have no doubt that they supposed that they produced from the New York Call, away back though it was in 1912, in their eagerness to fasten something upon these five young men, they were keen as attorneys, although of course, this is nothing but a lawsuit for them and they felt that was justified probably to put that in, although these men had nothing to do with it, and it is a fact developed on cross-examination that the man was promptly discharged who wrote that article in the Call.

And then the letter of this Buhay girl. I don't suppose that they knew when they put that in that that was a letter from the Communist branch of the party which had been eliminated from the party, but all these things have appeared even upon their side of the case so that, as I say, I have no doubt that they were mistaken to a large extent with regard to the fact in this case, and when you come to trim the case down and apply just our plain,

ordinary common-sense to it, we find that there is nothing here, when you strike out the immaterial matter, except the Socialist party and the platform which we have known of for years and some more or less intemperate political speeches, to which no importance attaches. Why I say no importance attaches to them is this: It would appear for three years the Government has been following with stenographers everybody who was a Socialist and taking down their speeches, and you had those speeches and they are in evidence, samples of them, according to their own stenographic report, the worst phase you can get of it.

Now, the next exhibit which I move to strike out is Exhibits 23 and 24, being the record of the Rand School conviction, page 239. Now, not one of these five assemblymen have been shown to have the least connection with the matters for which the Rand School was convicted. It is common knowledge that hundreds of corporations have been convicted in this country. It has never been regarded as the slightest reflection upon even the men who may be directors of the corporation unless it is shown that they had some part in the malfeasance or misconduct which resulted in the prosecution. If I am not mistaken, the Standard Oil Company was convicted a few years ago, and fined \$25,000,000 out in Chicago. And I remember reading in the papers since this trial began of the conviction of that leading publishing house, Harper Bros. in New York, for publishing a book.

Assemblyman Cuvillier.—They were not convicted of disloyalty.

Mr. Roe.—They were convicted of publishing an obscene book.

Assemblyman Cuvillier.—That is quite different.

Mr. Roe.—It ought to attach to the officers connected with it. I think the Rand School was convicted on a rather technical charge.

The Chairman.—Under the Espionage Act.

Assemblyman Cuvillier.—The same proposition.

Mr. Roe.—For publishing a book which was held improper under the Espionage Act but Scott Nearing, who was tried with the Rand School and the man who wrote the book was acquitted.

All I am saying here is just this: If the Rand School was on trial it would be well and good; this would be proper evidence.

If the prosecution had shown that these men had anything to do with the publication of this book by the Rand School then I conceive it would be proper, but just because these men are socialists, and the Rand School is a corporation, it doesn't appear that these men have any control over it at all, and it does seem most unfair to lumber up the record with a criminal conviction. Now, this thought comes to me in response to what the Chairman said, and it is a matter of great significance in weeding all this testimony. For the last three years there never has been a time in the history of the country, of the United States, and I hope there will never be another such time when there has been such stringent law against a man expressing a sentiment, writing an article or doing or failing to do anything that could be construed into possible disloyalty.

Assemblyman Evans.— There is no law against a man expressing his opinion.

Mr. Roe.— No, but under the Espionage Law we have had more restrictions upon that subject in the last three years than we have ever had before. That is true and yet, sir, these five young men have gone all through that period, campaigning, and they have hot campaigns down there in their portion of New York; it is not an uncommon thing to have brickbats and those kind of things flying at those meetings; when I was younger I used to take some part in those campaigns myself from the carttails, the good old days; I know something about it; I used to speak down in Hell's Kitchen. That is where they sent the young fellows to try them out. But they have gone through this period, the most critical period in the country's history, making their speeches, advocating their principals, not dodging what they had to say, and yet with all the vigilance of the government, and we have been mighty vigilant in New York — with all of the Attorney General's office and Postmaster's Department, there has never been a man to rise up and say "these men should be arrested or a complaint should be made against them", and that is a matter that ought to weigh very powerfully with you in consideration of this case.

Counsel on the other side read into the record here a section of the State law I had intended to read, a section of the Public Officers' Law, section 35-a, which said that any one who was guilty of a seditious utterance or using a seditious word should be expelled from his office. And yet, when you come to examine that statute, you will find that it limits it to the term of the office

of the man, and if it is so limited in the statute, then can the House make it unlimited? But I am admonished that I should return to the specific exhibits here.

The next exhibit I move to strike out is Exhibit 27, being the New York Call advertisement of certain meetings on pages 269 and 270. None of these five Assemblymen has any control over the Call, particularly they have no control over its paid advertisements.

Mr. Conboy.— Mr. Roe, what was the one just preceding this?

Mr. Roe.— 23 and 24.

Mr. Conboy.— Oh, yes, 23 and 24.

Mr. Roe.— Found at page 235.

Mr. Conboy.— That is all right.

Mr. Roe.— My point is, that these men simply had absolutely nothing to do with those advertisements, and shouldn't be held responsible for them in any way. They couldn't keep them from going into the Call. I don't recall what the advertisements were about, and don't care.

The Chairman.— It was advertising the fact that Mr. Claessens was going to speak.

Mr. Conboy.— That was the All-Star Program.

Mr. Roe.— Well, what possible difference does that make? I suppose he was advertised by handbills, and every other way.

Mr. Conboy.— You inquired whether he had any connection with the advertisement.

Mr. Roe.— Now, the same thing holds true of the Trachtenberg speech at one of these meetings. I don't think it has any possible place in the case. It doesn't appear that any of these men had anything to do with it. That is at pages 270 and 271. I move to strike the speech out — it is wholly immaterial.

I move to strike out Exhibit 28, found at page 278, being an alleged letter from Edwin Firth, purporting to advertise the sale of the manifesto of the Communist Internationale, and the Constitution of the World's First Socialist Republic. It does not appear who Edwin Firth is, or whether the Rochester Local to which the letter was sent, is a local of the Socialist Party and it

does not appear that any of the five Assemblymen knew either the writer of the letter or the persons receiving it, or that they had anything to do with it.

Exhibit 29, being an alleged manifesto of the Russian Communist Internationale, introduced at page 279, should go out for the same reasons.

I also move to strike out Exhibit 32, being an alleged letter to Mr. Martens from some one named Rebecca Buhay, introduced at page 322.

Now, you see while it was necessary for us to proceed here somewhat informally, yet there was the danger of admitting testimony of this kind and we are moving to strike it out at this time. This signature isn't identified, and that is true of nearly all the letters put in.

Mr. Conboy.— Is your motion based on that ground, that the signature is not identified

Mr. Roe.— Yes, sir, that is part of the ground.

Mr. Conboy.— That is a motion that should be made in the form of an objection at the time the letter was introduced.

Mr. Roe.— It was made at that time. I am not only saying this with regard to this particular letter, but other letters. There is no identification of the signature. If this signature had been identified in this case we would show that Rebecca Buhay was not a member of the Socialist Party.

The Chairman.— It appears that they had expelled that whole crowd.

Mr. Roe.— They had expelled that whole crowd.

Mr. Wolff.— There is no evidence of that in the record, Mr. Chairman.

Mr. Block.— No evidence that she was a member or her organization.

Mr. Wolff.— The letter was on the letterhead, and has the seal of the party on it.

Mr. Roe.— That isn't evidence.

Mr. Wolff.— I am addressing myself to your statement.

The Chairman.— Proceed.

Mr. Roe.— The point I am making is just this, that it is a matter for them to make the proof which connects the letter with this case, not for us to disprove it, and because they didn't make the proof and the committee in its discretion — I am not complaining — accepted that proof with the understanding that it would be proved, and it hasn't been done, therefore it should go out, and that same reasoning applies to many of the other letters and documents here, which I am not going to take up in detail. In this particular case, I refer to it because the fact is in the record — I don't recall how it got in now — but the fact is in the record that this branch of which this girl had been a member, had been expelled. She had no right to speak for the Socialist Party, and the reason of the rule which requires you to identify papers is for the very purpose that then by cross-examination or in some other way, when the affirmative case is being made, you can show the incompetency of the document. Now that we have proceeded to this point, and these pieces of evidence have not been connected, it seems to me that even under the liberal rule which this committee has adopted, they should go out of the record and not receive further consideration.

I also move to strike out the testimony of Mr. Martens before the Lusk Committee, page 386. I don't regard the testimony as material. It also is not shown in any way to be correct, and more than all that, it does not show that any of these men ever saw or conversed with Martens, or had the least thing in the world to do with him or with his ideas. It is not right, gentlemen. If any of you should ever be so unfortunate as to be under a mistaken inquiry of any sort, or any of us, we would properly feel that testimony which might be very damaging if it was connected with us, ought not to be in the case to influence anybody's judgment so long as it is not connected, and that is the position that these boys are in, and they are entitled to have applied to them in their case.

For the same reason, I move to strike out Exhibit 30, being the alleged Cleveland speech of Mr. Debs. I know of nothing more improper than to ascribe the views of one Socialist to another unless you have something more to connect the two than the mere fact that they are Socialists, and that is all you have in this case. Now, as far as we can judge from this record, somebody has talked about these Socialists conspiring here. Why, the idea of Socialists going about and seeking in devious methods to accomplish the purpose is ludicrous. The first thing that Socialist do when they want to accomplish some purpose or other is to call a convention

and give it as wide publicity as they can; they invite in all the reporters and everybody else, and everybody makes speeches, and after two or three days' discussion, the probabilities are that the convention will divide up and one branch of it will hold one thing, and another branch will hold another thing, and then they will submit their differences to a referendum, and then they will all vote on that. And this idea of charging the Socialists with conspiracy is to my mind ludicrous.

Assemblyman Cuvillier.—You don't contend that the conspiracy has to be in secret?

Mr. Roe.—No, but you are familiar with the rule of law that in 99 cases out of a hundred the conspiracy is secret, and that is why the peculiar rules of evidence are applied to conspiracies. Once you establish conspiracy, you admit all the things every conspirator has said. Now, you have applied that rule of law. That is the explanation given here as to why so much of this testimony should be admitted, and I say that the rule of conspiracy and the rule of law of conspiracy fails absolutely when you come to apply it to the doings of the Socialist party.

I also move to strike out Exhibits 40 and 41 introduced at page 437. It doesn't appear that these men ever saw these decrees and read them and knew what was in them before this trial began.

I also move to strike out Exhibit 42, Bulletin of the Rand School, introduced at page 442. They had nothing to do with that, and the Rand School conviction is introduced at page 446, and is Exhibits 33 and 34. The exhibit was first marked for identification as 23 and 24.

Mr. Conboy.—That is not the Rand School that was convicted. The conviction is of the American Socialist Society.

Mr. Roe.—Oh yes, we always refer to it as the Rand School.

Mr. Conboy.—You want to distinguish between the two.

Mr. Roe.—I also move to strike out Exhibits 49, 50 and 51, being alleged letters from Lenine, marked for identification pages 467 and 470. My recollection is that these letters are not proved in any way to be letters from Lenine, but whether they are or not, they are not proved that these young men ever saw or read or endorsed them.

The Chairman.—There is the cross-examination which shows that is a dispute, whether they were letters from Lenine or not.

Mr. Roe.— Yes. There is no syllable of evidence to connect these five young men with them.

The Chairman.— I carefully read that cross-examination.

Mr. Roe.— It may be, for all I know, that they heard the letters for the first time just as the rest of us did here in court.

I move to strike out Exhibits 53 and 55, being the record in the Stein case, introduced at page 491; also the opinion of Judge Garvin, introduced at page 493. None of the five assemblymen have any connection with this case and know nothing about it as far as the record shows.

Assemblyman Cuvillier.— What page is Judge Garvin's opinion?

Mr. Roe.— Page 493.

The Chairman.— That is in the Utica case?

Mr. Roe.— I believe it was. It is rather cruel to lumber up an investigation of this kind with the record of criminal convictions in which the parties are not connected at all. You are making a record that is going to stand for all time, and it is going to be read by this generation and future generations, and it doesn't seem to me it is fair to put things in that record that these men are not connected with.

For the same reason I move to strike out exhibits 67 and 68, being a portion of the record in the Berger case, introduced in evidence at page 594; also all the various letters and documents read into the record, purporting to be from the Berger case at pages 601, 612, 614, 632. What I have already said covers that matter, and I will not enlarge upon it.

I move to strike out Exhibit 83, page 805, being an appeal for funds dated January 22, 1918, for the defense of certain men charged with violating the Espionage Law, printed at page 806. These men have nothing to do with that, these five assemblymen.

I move to strike out Exhibit 84, page 810, unidentified circular, said to have been obtained in Rochester, N. Y., urging the Socialists to support the ticket although it might have the name of a Communist on it.

For the same reason as before, these men had nothing to do with it; no evidence that they approved or disapproved of it.

I move to strike out the Call article, dated February 10, 1912, read into the record at page 847. I haven't the exhibit number.

I have stated my objections to that article sufficiently, so I will not enlarge upon it. In the first place, it is too remote in point of time, and in the second place, it is not shown that these five men ever had anything to do with it; that they were mere boys at the time it was published. And you must keep in mind in considering these exhibits, there seems to have been no distinction, as far as I can tell, in this record, between the Communist Labor Party and the Socialist Party of America. It is a matter of common knowledge, and I think it appears in the evidence that the radical elements of the Socialist Party of America have been sluffed off in the last year, and the conservative, or Right Wing of the party, or what was the Right Wing, as I understand it, is what is left. It is the party to which these men belong, and I should not be charged up to them the utterances of the other elements of the party which have been excluded from the party.

Assemblyman Cuvillier.—How do you reconcile your statement to the minority report being adopted which advocated the Soviet Government in Russia, to be the party in America?

Mr. Roe.—I read both those reports and my recollection is that the minority report says something like this: "It is a very conservative document when you come to it—that without proving or disapproving, or some qualification with regard to the methods, the Socialist Party of the United States therefore declares itself (and you ought to read that resolution always in connection with the preamble which lays down very clearly the purpose of the party)." This is at page 327, and I ask you when you come to consider this resolution to read it in connection with the preamble, which lays down very clearly the policy to engage in political action to accomplish its purpose, which is exactly what you will remember Attorney-General Palmer said about the party in a recent letter that he wrote which was published in the newspapers, that that was characteristic of the Socialist Party of America. Now, with that in view, you come to this resolution. Now, notice.

"The Socialist Party of the United States therefore declares itself in support of the Third Moscow Internationale,"

not so much because it supports the Moscow program and methods; it isn't endorsing the program and methods, not at all, but because the Moscow is doing something which is really challenging to world imperialism.

"(b) Moscow is threatened by the combined capitalist forces of the world simply because it is proletarian.

"(c) Under these circumstances, whatever we may have to say to Moscow afterwards, it is the duty of socialists to stand by it now, because its fall will mean the fall of Socialist Republic in Europe, and also the disappearance of socialist hopes for many years to come."

Now, I am not moving to strike that out; I am leaving that in the record to consider as you have said, for what it is worth. But I have a very clear idea about that, and while we are proceeding informally here, you probably read that same thing in the papers this morning, and that is, the report of Lloyd George's speech in the House of Commons yesterday. This particular quotation I have is from the World today.

The Chairman.—The paper I read said he turned Bolshevik.

Mr. Roe.—I didn't see that. I only read conservative papers.

Mr. Block.—He got ahead of you, Mr. Chairman, as far as the publication is concerned.

Mr. Roe.—Lloyd George said this: That they failed to restore Russia to sanity by force. I believe we can save her by trade.

Assemblyman Cuvillier.—While you are reading that in the record, read where it emphasizes what he says about the fear of England itself internally, that heavy print. Be fair to the committee.

Mr. Roe.—Yes, if there is no objection, I will be glad to read it all into the record.

The Chairman.—It is beyond the scope of the committee.

Mr. Roe.—I don't feel called upon at all to prove or disapprove the recommendations or resolution of the Socialist party in regard to the Soviet Government, but we all of us know that that government has stood up there for years, and made a fight practically against the world. It must have great strength with the people. They say here, without endorsing its program, without endorsing its methods, "it looks to us now that it was between the Soviet Government and the reactionary forces of Kolchak, and the former generals of the Czar." Now, whether the Socialists were right in

giving it their approval and Godspeed and sympathy isn't for me to say or for this committee. But it doesn't afford any reason for expelling a Socialist member from the House.

(Discussion off the record.)

Mr. Roe.— I haven't had access to the testimony of yesterday. There was some mistake in the printing, and my copy was taken away as soon as it was given to me, and I haven't a list of the exhibits of yesterday, but I recall that Milwaukee paper ought not to be in evidence at all, and that exhibit of some man who gave a report of a speech which he wrote out of what he claimed was said, isn't proper. It should go out. The same thing in regard to that Milwaukee deposition, and as I recall there were a number of other pieces of evidence that were put in under the general objection that we have taken right along that they should be stricken out, if they were not connected.

Mr. Roe.— Now, I told you I was going to be brief, and I tried to do that, although I have gone over this matter — it is for you to consider the different exhibits and to say whether they should go out or stay in, and what there is left of the case. I thank you very much.

The Chairman.— I am inclined to deny all your motions without further argument, not because I do not say that you have argued very conclusively as to some of the evidence, but in this wide scope of evidence and carefully analyzing it — I have gone down to 515 pages, and as I have carefully analyzed it, 92 pages of that is quite important. You are dealing with a lot of lawyers and we can fix that up, and I am going to allow you as much latitude as the others.

Mr. Stedman.— You are proceeding on the theory that the court will only take into consideration relevant and competent evidence.

The Chairman.— We try to do that. Some of it is historical; some of it is important, and some of it is not very important at all. I think that would be the fair way to do that.

(Discussion off the record.)

Mr. Conboy.— I offer in evidence at this time, in order to get as much of our case in as possible before we adjourn, the New

York Call of Saturday, September 22, 1919, containing what purports to be a speech by Assemblyman-elect August Claessens.

Mr. Stedman.— Do you want to read it?

Mr. Conboy.— Yes, sir.

Mr. Stedman.— We are objecting to it as a newspaper report.

The Chairman.— Overruled.

(The issue of The New York Call of September 22, 1919, was received and marked Exhibit 108 in evidence of this date.)

Mr. Conboy.— The article is headed, " City Socialists Demand Quick General Amnesty for Political Prisoners."

(Reading.) "Resolutions urging the repeal of the Espionage Act and the declaration of a general amnesty for all political prisoners and conscientious objectors were forwarded last night to the authorities at Washington from a mass meeting of 1,500 men and women in the Brownsville Labor Lyceum.

"The meeting, which was held under the direction of the 2nd, 18th and 23rd Assembly District Branches of the Socialist Party, was addressed by Norman Thomas, Elizabeth Gurley Flynn, Alderman-elect A. I. Shiplacoff and Assemblyman Charles Solomon. Louis P. Goldberg presided.

"All the speakers joined in condemning the recent activities of the Luskers and of the reactionary war veterans and Chamber of Commerce groups who have been raiding the halls of the Socialist Party, the Communist Party, the Communist Labor Party and the Industrial Workers of the World throughout the country.

"The speakers pointed out that the Espionage Act,—"

Mr. Stedman.— I think you ought to confine yourself to what he did.

Mr. Conboy.— If I did, you will read the rest of it, and I choose to do it now.

The Chairman.— Go ahead.

Mr. Conboy.—(Reading):

"The speakers pointed out that the Espionage Act had resulted in sentences in this country that were much severer

than those under similar laws in other countries. 'Crimes' that were punished with two years in Great Britain were penalized with 20 in the United States, it was declared.

"It was shown that, while England, France and Italy had liberated all their political prisoners, thousands were still behind bars in the United States.

"The speakers wanted to know whether those held in the United States were being confined for having obstructed the progress of the war or for their general political beliefs. It was asserted that the government could declare its position, now that the war had been announced by President Wilson as having come to an end, by liberating all political prisoners. A large collection was taken up.

"At the same time, the immediate lifting of the blockade against Soviet Russia and the release of all political and class war prisoners, were demanded last night by more than 2,000 persons who crowded Webster hall, cheering and applauding as speaker after speaker prophesied the coming of a new order.

"Assemblyman-elect Louis Waldman outlining the Allies' attitude toward Russia as manifested at the Peace Conference, was lustily applauded when he made the point that even Lloyd George had been forced to admit that Soviet Russia could not be crushed by troops.

" 'There is but one thing that the ruling class respects,' said August Claessens, 'and that is power. We can resolute and resolute but there is only one way to get our comrades out of jail, and that is by organization.

" 'There is little real difference between the Socialist party and the Communists. We want to get to the same place, but we are traveling by different roads. The reason that they are being raided and we are unmolested is not because we are considered more conservative, but because we are more powerful than those little groups.'

"Henry Jager, Judge Panken, Assemblyman-elect Samuel DeWitt and Alderman Algernon Lee were among the speakers. The meeting was held by the Socialist party of the Eighth Assembly District and was one of the nation-wide series of meetings arranged by the National Office of the Socialist party to demand a general amnesty for political prisoners."

(Discussion off the record.)

The Chairman.—All witnesses subpoenaed on the part of the attorneys for the Committee are excused from further attendance. Without their being re-subpoenaed they need not come again.

Mr. Stedman.—When I was reading this morning from Tucker's statement on "Pigs is Pigs," the article in relation to Servian pigs,—and I am now reading:

"I have before me a copy of the Extension Magazine, published monthly by the Catholic Church Extension Society of the United States. The leading editorial of the issue of 1917 is entitled, 'The Pigs of War.' That editorial was on my desk at the time I wrote; it was published in the latter part of May, 1919."

This appears on page 873 of volume 2 in the Berger case.

(Discussion off the record.)

The Chairman.—We will adjourn until Tuesday, at 10:30 A. M.

(Whereupon, at 4:45 P. M., on February 11, 1920, a recess was taken until Tuesday, February 17, 1920, at 10:30 o'clock in the forenoon.)

BRIEF OF MR. GILBERT E. ROE.

Mr. Chairman, Gentlemen of the Committee:

I submit at this time, two motions. One is to strike out certain testimony and exhibits. The other is to dismiss the proceeding at this point, or, more properly, I move that your honorable committee forthwith report to the Assembly that nothing has been shown to disqualify these five Assemblymen or any of them under the law from holding their seats in the Assembly. Your power and your duty in this proceeding is limited strictly by the terms of the resolution of January 7th last. That resolution calls upon you to investigate the qualifications of these five Assemblymen. That is all. At a later stage in my argument, I shall revert to this subject and endeavor to point out the exact limits of your power and your duty under this resolution. For the present, however, I address myself to the question of evidence and inquire exactly what the legal rights of these five Assemblymen are. What views may a citizen and an Assemblyman hold? What

views may he express? What principles of government may he espouse and advocate? We started out in this case with the charge that these five men were going to be shown to be members of an invisible empire, and as such, enemies of their own government and their own people. We have wound up, however, with a recital of petty campaign quarrels and abuse epithets, all of which obviously were an after-thought and have been resurrected by numerous and industrious counsel for the prosecution after the charges were filed and these five men unlawfully suspended. It has become very important, therefore, that we come at once to a clear understanding of what these Assemblymen or any other citizens have a right to believe and to expound in the way of political doctrines and theories.

POINT I

THESE FIVE SOCIALIST MEMBERS OF THE ASSEMBLY HAVE THE RIGHT TO SUPPORT AND ADVANCE THEIR POLITICAL BELIEFS BY EVERY METHOD WHICH DOES NOT VIOLATE THE CONSTITUTION OR THE LAWS NO MATTER HOW OBNOXIOUS THOSE POLITICAL BELIEFS MAY BE OR HOW FUNDAMENTAL MAY BE THE CHANGES IN THE STRUCTURE OF GOVERNMENT WHICH THEY PROPOSE.

The Supreme Court of the United States in the *Gulf*, etc. *v. Ellis*, 165 U. S. 160, says:

“It is always safe to read the letter of the Constitution in the spirit of the Declaration of Independence.”

The Declaration of Independence after stating that all governments derive their just powers from the consent of the governed and that the real function of government is to secure the people in the rights to life, liberty and the pursuit of happiness, declares:

“Whenever any form of government becomes destructive of these ends, it is the right of the people to alter or to *abolish* it, and to institute a new government, laying its foundation on such principles and organizing its powers in such form as to them shall seem most likely to effect their safety and happiness.”

The greatness of the Constitution of the United States lies not only in the admirable distribution of powers among the several branches of the government, but in the method provided for effect-

ing all such changes in the structure of government as the people may desire to bring about. The Constitution has wisely provided the method in harmony with the Declaration of Independence by which the people may *abolish* our present form of government if they desire and institute a new one, laying its foundations on such principles and organizing its powers in such forms as to them shall seem most likely to effect their safety and happiness. No matter how sweeping or radical the changes proposed no one has any right to complain so long as the methods pursued to accomplish those changes are legal methods. We are at the present time engaged in a transformation of our institutions undreamed of by the founders of this Republic. By the Eighteenth Amendment hundreds of millions of dollars of private property are wiped and destroyed without compensation. By the Thirteenth Amendment billions of dollars worth of private property were destroyed, and in the succeeding amendments full citizenship was bestowed upon a race of men who theretofore had been regarded simply as chattels. Whatever may be the ideals of Socialism, their application will hardly work more fundamental changes in the structure of our government than has already been accomplished, but whether they do or not is wholly immaterial. If it is the will of the people that those changes shall be made, then any man who seeks by unlawful means to obstruct or thwart that will is himself disloyal to the most cherished and most important of our Constitutional rights, namely, the right of the people to change, or if they will, abolish the existing form of government, and erect another government on such foundations as they choose, organizing its powers in such form as to them shall seem best. In theory I take it no one disputes these propositions, though in practice many of us fail to observe them.

I suppose no one will accuse General Grant of lack of patriotism or loyalty, yet he was bitterly opposed to the Mexican War, both before it was declared and subsequently. In his "Personal Memoirs" Second Edition, 1895, pages 32-34, he said:

"For myself I was bitterly opposed to the measure (Annexation of Texas), and to this day regard the war which resulted as one of the most unjust ever waged by a stronger against a weaker nation. It was an instance of a republic following the bad example of European monarchies, in not considering justice in their desire to acquire additional territory. * * * * The occupation, separation and annexation

(of Texas) were, from the inception of the movement to its final consummation, a conspiracy to acquire territory out of which slave states might be formed for the American Union * * * Even if the annexation itself could be justified, the manner in which the subsequent war was forced upon Mexico cannot * * * It might have been obtained (Texas) by other means. The Southern rebellion was largely the outgrowth of the Mexican War."

It is clear, therefore, that we have engaged in unjust wars. On January second, 1848, at the very height of the Mexican War Mr. Ashmun of Massachusetts offered in the House of Representatives an amendment to a resolution of thanks to General Taylor by inserting therein the statement that the Mexican War was "Unnecessarily and unconstitutionally begun by the President of the United States." (But it is said the Socialists opposed the prosecution of the war after it was commenced.) That amendment was adopted by a vote of 85 to 81. Abraham Lincoln, then a member of the House of Representatives voted in favor of it. (See Congressional Globe, Thirtieth Congress, First Session, p. 35.) The subsequent motion to expunge the amendment was lost by an even larger vote. Mr. Ashmun was afterwards made chairman of the Republican convention in Chicago that nominated Mr. Lincoln for the Presidency on May 18th, 1860. Mr. Lincoln in the House of Representatives on January 12, 1848, made a vigorous speech upholding the Ashmun amendment and attacking the President for his war policy. He said: "As I have before said, he knows not where he is. He is a bewildered, confounded, and miserably perplexed man. God grant he may be able to show there is not something about his conscience more painful than his mental perplexity." See Congressional Globe; Appendix; 30th Congress, First Session, p. 93-95.

There never was a time in this country when feeling ran higher than during the Civil War, and yet the strong men of that time, warm supporters of the Union, all of them, including Senator Trumbull and Senator Sumner, as well as President Lincoln, insisted upon the utmost freedom of discussion. It is a commonplace of history that the National Democratic Platform, adopted in Chicago August 29, 1864, in the dark days of the war, strongly and violently condemned the war. Among other things, it declared:

"Justice, humanity, liberty, and the public welfare demand that immediate efforts be made for a cessation of hostilities, with a view to the ultimate convention of the States, or other peaceable means, to the end that, at the earliest practicable moment, peace may be restored on the basis of the Federal Union of the States."

Also—

"That the direct interference of the military authorities of the United States in the recent elections held in Kentucky, Maryland, Missouri, and Delaware was a shameful violation of the Constitution, and a repetition of such acts in the approaching election will be held as revolutionary, and resisted with all the means and power under our control."

Yet, sir, upon this platform, Gen. George B. McClellan was nominated for President and polled a very large vote. The language of the St. Louis platform is mild in its condemnation of the war upon which we were about to enter when it was adopted compared with the condemnation of the Chicago platform of 1864 of the war which had then been in progress for nearly three years.

Alexander H. Stevens, of Georgia, in a speech on February 15, 1847, while the Mexican War was at its height, said:

"The President has more than once told us that the war is not waged for conquest. Is there a friend of his on this floor who supposes that anybody familiar with the unparalleled duplicity of his administration will do the President the injustice to believe him. **Every act of his toward Mexico** before the war began and since the war began displays his policy too clearly to be mistaken." (See McMaster's History of the United States, p. 477; also Cong. Globe, 29th Cong. 2d sess., p. 401.)

"It will be remembered that Congress was far more united in its declaration of the war against Mexico than it was in declaring the present war. There were but two votes in the Senate against the declaration of war, Clayton of Delaware and Davis of Kentucky, Senators Berrien, Calhoun, and Evans, being in their seats did not vote. (See Cong. Globe, p. 804, 1st ses., 29th Cong.). There were 12 votes against the declaration of war in the House of Representatives. (See

Cong. Globe, 29th Cong., 1st Sess., vol. 3, p. 795; also p. 824.)

"The President in his annual message to Congress December, 1846, took occasion to justify the declaration of war against Mexico which he had obtained from Congress on May 13, 1846, at its previous session, and pointed out the number of lawless acts perpetrated upon the property and persons of our citizens by Mexico and of wanton insults to our national flag. Of those who opposed the war, the President said:

"The war has been represented as unjust and unnecessary, and as one of aggression on our part upon a weak and injured enemy. Such erroneous views, though entertained by but a few, have been widely and extensively circulated, not only at home but have been spread throughout Mexico and the whole world. A more effectual means could not have been devised to encourage the enemy and to adhere to their cause, and thus give them aid and comfort. (See Cong. Globe, 29th Cong., 2nd Sess., p. 4.)"

Charles H. Hudson, of Massachusetts, speaking in the House of Representatives, referring to the above-mentioned portion of the President's speech, said:

"I look with equal indifference upon the denunciation of the President and of his flatterers on this floor. I will speak my sentiments here or elsewhere and I will speak them fully. If I believe the Executive is wrong in any of his measures, I will make the declaration. If I believe he has usurped power and trampled upon the Constitution of the United States, none of the denunciations or sarcasms of gentlemen on this floor will deter me from giving a full expression of these my views and feelings. Nothing, I say, that the President can say or do will deter me in any degree from a full and fair expression of my own opinions. Has it come to this, Mr. Chairman, that a President can arrogate to himself the warmaking power, can trample the Constitution under foot, and wantonly involve the Nation in war, and the people must submit to this atrocity and justify him in his course or be branded as traitors to their country? Why, sir, if this doctrine prevails, the more corrupt the administration is, if it has the power or the daring to involve this Nation in a

war without cause, the greater is its impunity, for the moment it has succeeded in committing that outrage every mouth must be closed and every one must bow in submission. A doctrine more corrupt was never advanced; a sentiment more dastardly was never advocated in a deliberative assembly. Gentlemen who profess to be peculiar friends of popular rights may advance doctrines of this character and they may be in perfect accordance with their views and feelings and in conformity with their democracy; but I have too much of the spirit which characterized our fathers to submit to dictation from any source whatsoever, whether it be foreign monarch or an American President."

"I believe, Mr. Chairman, that the first principal declaration contained in the message of the President — that the war exists by the act of Mexico and that we have taken all honorable means to prevent it — to be an untruth. * * *

"The message, Mr. Chairman, declares that the existing war with Mexico was neither desired nor provoked by the United States; on the contrary, all honorable means were resorted to to avert it! This declaration, I believe to be absolutely untrue!" (See Cong. Globe, Appendix, 29th Cong., 2nd Sess., pp. 47-49)."

If it is true as has been asserted here that after we are once involved in war the people have no right to oppose its continued prosecution or demand an early peace, what possible difference is there between this boasted democracy of ours and the most odious despotism which ever afflicted a helpless people since governments began among men! The right to oppose our continuance in a war, in which the people did not believe and to fully discuss it is, as Webster well said: "A home-bred right, a fireside privilege." The war of 1812 was declared on the 18th day of June, 1812, and was concluded by the Treaty of Ghent on the 24th day of December, 1814. If there ever was a just war it seems to me that the War of 1812 was a just war on our part. Yet it was strongly opposed by some of the leading and most patriotic men of the country. What was endured before taking up arms against Great Britain is well stated in the Garner and Lodge history of the United States, Vol. III. In spite of this provocation, however, the legislature of Massachusetts declared that the war was a "wanton sacrifice of our best interest". The House of Delegates of the State of Maryland, in a memorial addressed to Congress

presented in the House of Representatives, February 2, 1914, said among other things that they were

“ Convinced * * * that the war might have been avoided ”.

Also:

“ That peace might be restored without dishonor to the country the present juncture seems to us highly favorable for a reconciliation with England, and it is fairly and honestly assured.” (Annals 13th Cong., 1st and 2nd sess., Vol. I, pp. 1205-1209.)

Hon. Morris S. Miller, a Representative in Congress from the Utica, N. Y., district, in the course of the discussion in the House of Representatives on the bill for the encouragement of enlistments, said:

“ We have been told by the honorable gentlemen on the other side of the House that, however much we may have been originally opposed to the war, it now becomes our duty to withhold our opposition and afford all the means in our power to carry it on with the utmost vigor. To this opinion I cannot subscribe; it goes to the destruction of civil liberty and will not find advocates on this side of the House. This doctrine strikes at the vitals of your Republican institution. It amounts to neither more nor less than this: That a weak and wicked administration (I speak not particularly of the present men in power), finding the confidence of the people withdrawn and their power about to pass into other hands, have nothing to do but to declare war, and instantly all opposition must cease; the men who happen to be in place at the time of the declaration of war, however weak, however incompetent and however profligate, must be supported at every hazard. To this doctrine I object, as it goes directly to the destruction of civil liberty. The people of this country, I am proud to say it, have an undoubted right to pass upon the conduct of public men and examine the tendency of public measures in war as well as in peace.” (Annals 13th Cong., 1st and 2nd sess., Vol. I, p. 956.)

Hon. Abijah Bigelow, a Member of the House of Representatives from Massachusetts, speaking against the loan bill, February 9, 1814, said:

“ I shall vote against it on the principle that it is to obtain

money to prosecute a war of invasion and conquest, a war which has been unwisely managed as it was improvidently declared. I shall vote against it on the principle that the measures which preceded and produced it were radically wrong." (Annals 13th Cong., 1st and 2nd sess., Vol I, p. 1274.)

Hon. Timothy Pitkin, of Connecticut, speaking in the House of Representatives on the bill, said:

"Believing, as I do, that in this war of conquest we are sacrificing our men and expending our money without a prospect of any adequate advantage, I feel justified in voting against a loan of so many millions for this object." (Annals 13th Cong., 1st and 2nd sess., Vol. I, p. 1286).

Hon. Daniel Sheffey, a Representative from Virginia, speaking in the House of Representatives for the bill to provide an additional military force, in January, 1813, said:

"It is said that war having been declared all considerations as to its policy or justice are out of the question, and it is required of us as an imperious duty to unite on the measures which may be proposed by them for its prosecution, and we are promised a speedy, honorable and successful issue. Do gentlemen require of us to act against our convictions? Do they ask that we should follow with a reluctant step in the career which we believe will end in ruin? Or do they suppose that while on the simplest subject an honest diversity of sentiment exists on this complicated and all-important one our minds are cast in the same mold? Uniformity of action is only desirable where there is uniformity of sentiment, and that on most subjects will only exist where the mind is enchained by the fear which despotic power inspires.

"But it has been said that the obedience to the will of the majority is the first principle of representative government and enjoins what gentlemen require. Yes, sir, obedience to all constitutional acts is a high and commanding duty on the part of the minority and the people, and all factious opposition is highly criminal. But this does not prevent any one in this House, or in the Nation, to use every effort to arrest the progress of evil, or to effect a repeal of measures injurious to the public interest. And how can this be done unless there is full liberty to think, and to speak and act as our con-

victions shall dictate? If this be denied then there is an end to free government. A majority never can be corrected. They are irresponsible and despotic; they may prepare the yoke when they please we must submit to it in silence." (*Annals*, 12th Cong., 2nd sess., Vol. 3, p. 681).

Daniel Webster, in a speech in the House of Representatives, January 14, 1814, strongly opposing the policy of the administration in prosecuting the War of 1812, and particularly addressing himself to the attempt then made to discourage discussion of the war by those opposed to it, said:

"Important as I deem it to discuss on all proper occasions the policy of the measures at present pursued, it is still more important to maintain the right of such discussion, in its full and just extent. Sentiments lately sprung up and now growing fashionable, make it necessary to be explicit on this point. The more I perceive a disposition to check the freedom of inquiry by extravagant and unconstitutional pretenses, the firmer shall be the tone in which I shall exercise it."

But it may be said that there is something peculiarly sacred about the rights of Congressmen and public officials to discuss the war, but that the plain people may not do so. Nothing can be farther from the fact. The whole history of our country is to the contrary. Henry Clay in a memorable address at Lexington, Kentucky, on the thirtieth day of November, 1847, during the period of the sharpest conflict of the Mexican War, addressed a great gathering, condemned the entire policy of the war, and urged the people to discuss the war among themselves and to petition their members of Congress respecting its termination. Among other things, he said:

"Let it (Congress) resolve simply that the war shall or shall not be a war of conquest; and if a war of conquest what is to be conquered? Should a resolution pass disclaiming the design of conquest, peace would follow in less than sixty days, if the President would conform to his Constitutional duty."

In closing his discussion he presented a series of resolutions overwhelmingly adopted by the meeting, the last of which is:

"Resolved, That we invite our fellow citizens of the United States who are anxious for the restoration of the

blessings of peace, or, if the existing war shall continue to be prosecuted are desirous that its purposes and objects shall be defined and known, who are anxious to avert present and future perils and dangers, with which it may be fraught, and who are also anxious to produce contentment and satisfaction at home, and to elevate the national character abroad, to assemble together in their respective communities, and to express their views, feelings and opinions."

I now quote from a speech of Charles Sumner, delivered at a mass meeting at Tremont Temple, Boston, November, 1846, the war having been begun on May 13, previously.

John A. Andrew, who was the great war governor of Massachusetts, as I remember, presided at this public meeting, which was in support of the Independent Nomination of Dr. I. G. Howe, as representative in Congress. Mr. Sumner was followed by Hon. Charles Francis Adams, who also delivered an address at this meeting.

This is the view of Mr. Sumner on the Mexican War, which was then in progress, as expressed by him on the occasion:

"The Mexican War is an enormity born of slavery * * * Base in object, atrocious in beginning, immoral in all its influences, vainly prodigal of treasure and life it is a war of infamy, which must block the pages of our history."

In closing his eloquent and powerful address, he said:

" 'Even if we seem to fail in this election we shall not fail in reality. The influence of this effort will help awaken and organize that powerful public opinion by which this war will at last be arrested. Hang out, fellow citiezens, the white banner of peace; let the citizens of Boston rally about it; and may it be borne forward by an enlightened, conscientious people, aroused to condemnation of this murderous war, until Mexico, now wet with blood unjustly shed, shall repose undisturbed beneath its folds.' "

Now is there anything unique about this right to discuss war and condemn our participation in war which we may regard as unjust:

"Discussion by English Statesmen.

"John Bright consistently fought the Crimean War with all the power of his great personality and noble mind; he fought it inch by inch and step by step from the floor of the

English Parliament. After his death Gladstone, although he had been a part of the Ministry that Bright had opposed because of the Crimean War, selected this as the theme for his eulogy of the great statesman, as best portraying his high character and great service to the English people.

"Lloyd George aggressively opposed the Boer War. Speaking in the House of Commons, July 25, 1900, in reply to the Prime Minister, he said:

" 'He has led us into two blunders. The first was the war. But worse than the war is the change that has been effected in the purpose for which we are prosecuting the war. We went into the war for equal rights; we are prosecuting it for annexation. * * * You entered into these two Republics for philanthropic purposes and remained to commit burglary. * * * A war of annexation, however, against a proud people, must be a war of extermination, and that is unfortunately, what it seems we are now committing ourselves to — burning homesteads and turning men and women out of their homes.' "

" * * * If I were to despair for the future of this country it would not be because of trade competition from either America or Germany, or the effectiveness of its army, or anything that might happen to its ships; but rather because it used its great bulky strength to torture a little child. Had it not been that his ministry had shown distinct symptoms of softening of the brain, I would call the torpor and indifference they are showing in face of all this, criminal. It is a maddening horror, and it will haunt the empire to its dying hour. What wonder is it that Europe should mock and hiss at us ?

"Let any honest Britisher fearlessly search his heart and answer this question: Is there any ground for the reproach flung at us by the civilized world that, having failed to crush the men, we have now taken to killing babies ? "

The Duke of Grafton in the House of Lords, October 26, 1775, speaking against voting thanks to British officers and soldiers, after the battles of Lexington and Bunker Hill, declared:

" 'I pledge myself to your Lordships and my country that if necessity should require it and my health otherwise permitted, I mean to come down to this House in a litter in order to express my full and hearty disapproval of the measures

now pursued, and, as I understand from the noble Lords in office, meant to be pursued.' ”

The Socialists charge that the late war was a capitalistic war. Perhaps they were entirely wrong. I am not here to discuss that. But no one doubts that they believe it. Concerning this war, President Wilson in his St. Louis address, September 5, 1919, in his swing around the circle on his League of Nations tour, said :

“ Why, my fellow citizens, is there any man here or any woman, let me say is there any child here, who does not know that the seed of war in the modern world is industrial and commercial rivalry? The real reason that the war that we have just finished took place was that Germany was afraid her commercial rivals were going to get the better of her, and the reason why some nations went into the war against Germany was that they thought Germany would get the commercial advantage of them. The seed of the jealousy, the seed of the deep seated hatred was hot, successful commercial and industrial rivalry.”

The Socialists say the late war was a capitalistic war. President Wilson says it was a commercial war. If it was a commercial war, it certainly was a capitalistic war, but whether it was so or not, the Socialists believed their contentions to be correct and believing that they have the unbroken precedent in this country from its foundation to the present day for taking the position that party took in opposition to the war. If these Socialists are to be denied seats in the Assembly because of the position they took respecting the late war, or which their party took, then on the same principle, Webster, Clay, Sumner and others should have been denied seats in the Senate of the United States and Abraham Lincoln should have been denied a seat in the House of Representatives.

(Adjourned to Tuesday, February 17, 1920, at 10.30 o'clock in the forenoon.)

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